



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: June 2, 2004***

### **AMEND AGREEMENT WITH THE STROMBOTNE LAW FIRM**

#### **RECOMMENDED ACTIONS:**

Authorize the City Manager to execute an Amendment to the Agreement with the Strombotne Law Firm.

#### **EXECUTIVE SUMMARY:**

On October 21, 2003, the City contracted with the Strombotne Law Firm to assist the City with its defense in the complaint filed by Oregon Mutual Insurance Company. The parties reached a settlement at the mediation held on March 19, 2004. The attached Amendment to Agreement is in the amount of \$35,000. It is anticipated that this amount will be sufficient to cover the fees and costs associated with preparation of the closing documents and finalizing the settlement. Therefore, staff is recommending that Council approve the attached Amendment to Agreement in the amount of \$35,000.

#### **FISCAL IMPACT:**

The cost of this agreement can be accommodated in the City Attorney's Office budget. No additional appropriation is necessary at this time.

**Agenda Item # 1**

**Prepared By:**

\_\_\_\_\_  
**(Title)**

**Approved By:**

\_\_\_\_\_  
**(Department Director)**

**Submitted By:**

\_\_\_\_\_  
**City Manager**



## CITY COUNCIL STAFF REPORT

**MEETING DATE: JUNE 2, 2004**

### APPROVAL OF A MOU TO CONDUCT A REGIONAL ANNUAL INTEGRATED PEST MANAGEMENT PROGRAM

#### **RECOMMENDED ACTION(S):**

- 1) Approve MOU joining the Counties of Alameda, San Francisco, and Santa Clara, Santa Clara Valley Water District, Fairfield Suisun Sewer District, Vallejo Sanitation and Flood District, and Orkin Pest Management Company to conduct an annual IPM Conference.

**EXECUTIVE SUMMARY:** On March 21, 2001, Council directed staff to evaluate a proposed Reduced Pesticide Use Ordinance for the County of Santa Clara and recommend a position on the Ordinance. On April 4, 2001 staff returned to Council recommending that rather than taking a formal position on the County's Ordinance, that Council direct staff to: 1) Prepare a letter for the Mayor indicating the City's support for the general principles of reduced pesticide use 2) Evaluate the Reduced Risk Pesticide Use practices of San Francisco, Marin County, and other relevant agencies and consider how to adapt them for use in developing a City of Morgan Hill policy 3) Report back to Council with a recommendation regarding Reduced Pesticide Policy for the City.

At the August 27, 2003 City Council Meeting staff reported to Council on all of the above items. At that time staff recommended to Council that the appropriate action for the City was to participate in the County of Santa Clara's Collaborative Integrated Pest Management Program to receive education and training preparatory to the development of a City of Morgan Hill IPM Ordinance and or Program in approximately two years. Council approved this recommendation.

Since the August 2003 staff has attended technical advisory group meetings at the County of Santa Clara and has received information regarding reduced risk pesticide practices. To the extent practical staff is incorporating these practices in Public Works Operations.

As a continuing part of a cooperative effort with the County of Santa Clara and other participating agencies and private sector pesticide businesses staff recommends Council approve the attached MOU. Its purpose is to establish terms by which all participating parties will cooperate and coordinate activities necessary to conduct an annual IPM Conference to promote and advance responsible practices of Integrated Pest Management. The MOU has been reviewed and approved by the City Attorney.

The first IPM Conference is to be held June 7, 2004 at the Issac Newton Auditorium and Board Chambers at the County of Santa Clara Administration Building in San Jose. Four members of our Public Works staff will be attending. See the attached agenda for this conference.

**FISCAL IMPACT:** The Santa Clara County Collaborative IPM Program cost to the City of Morgan Hill is \$1,200 annually. The 2003-04 Public Works Operations Budget contains sufficient funding for this expense.

**Agenda Item # 2**

**Prepared By:**

**Deputy Director Public  
Works/Operations**

**Approved By:**

**Public Works Director**

**Submitted By:**

**City Manager**



***CITY COUNCIL STAFF REPORT***  
***MEETING DATE: JUNE 2, 2004***

***FINAL MAP ACCEPTANCE FOR LANDS OF MARQUEZ***  
***(TRACT 9552)***

**RECOMMENDED ACTION(S):**

- 1) Approve the final map, subdivision agreement and improvement plans
- 2) Authorize the City Manager to sign the Subdivision Improvement Agreement on behalf of the City
- 3) Authorize the recordation of the map and the Subdivision Improvement Agreement following recordation of the Development Improvement Agreement

**EXECUTIVE SUMMARY:**

Tract 9552 is a 5 lot subdivision on located on the west side of Dewitt Avenue approximately 600 feet north of the Spring Avenue and Dewitt Avenue intersection (see attached location map). The developer has completed all the conditions specified by the Planning Commission in the approval of the Tentative Map on October 14, 2003.

The developer has furnished the City with the necessary documents to complete the processing of the Final Map and has made provision with a Title Company to provide the City with the required fees, insurance and bonds prior to recordation of the Final Map.

**FISCAL IMPACT:**

Development review for this project is from development processing fees.

**Agenda Item # 3**

**Prepared By:**

**Senior Civil Engineer**

**Approved By:**

**Public Works Director**

**Submitted By:**

**City Manager**



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: JUNE 2, 2004***

### **ACCEPTANCE OF MAIN AVE./UPRR CROSSING PROJECT**

#### **RECOMMENDED ACTION(S):**

1. Approve Change Order for extra work in the amount of \$40,161.11
2. Appropriate \$21,219 from unappropriated Water Capital Impact Fund (651)
3. Accept as complete the Main Ave./UPRR Crossing Improvement Project (#524000) in the final amount of \$329,805.21.
4. Direct the City Clerk to file the attached Notice of Completion with the County Recorder's office.

#### **EXECUTIVE SUMMARY:**

The contract for the Main Ave./UPRR Crossing Improvement Project was awarded to Stevens Creek Quarry, Inc. by the City Council at their July 23, 2003 meeting in the amount of \$277,109.50. The project resulted in completion of the ultimate widening and safety improvements for this busy at-grade crossing. In addition, the project constructed a vital water system connection by boring under the UPRR tracks and connecting the water mains on each side. Upgrades to the city storm drain system were also constructed. Total costs of the project are \$580,231 (excluding staff time), which included \$96,000 in design costs and \$156,970 for UPRR work and right-of-way acquisition from UPRR.

The extra work items were almost all associated with the portion of the project involving the water line connection. Many unforeseeable obstructions were encountered during the digging of the bore pits, during the boring, and at the connection points on both sides. Most of this work was being done during the street closure, sometimes with rail closure, and much of it at night. It was prudent to make sure that the work kept progressing, and it was not feasible to halt work to process change orders in the typical manner used in more traditional construction situations. Any such delays would have resulted in significant extra costs. It is requested that the Council approve the change order that will cover all of the extra work items required to complete this project in a timely manner.

It is important for the Council to know that the total costs of the project are approximately \$29,000 less than previously authorized by the Council. These savings were a result of coordinating several major work items to be done simultaneously, mostly during a one week period that Main Ave. was closed.

The work has been completed in accordance with the plans and specifications.

#### **FISCAL IMPACT:**

This project was budgeted with funding from the Storm Drain Fund (304), Water Impact Fund (651), Traffic Impact Fund (309), and approximately \$234,500 from a Federal grant. The final amounts for the improvements constructed from each of the several fund sources is shown on the attached chart.

**Agenda Item # 4**

**Prepared By:**

**L.Versaw  
Contract Prj. Mgr.**

**Approved By:**

**Public Works Director**

**Submitted By:**

**City Manager**

Record at the request of  
and when recorded mail to:

CITY OF MORGAN HILL  
CITY CLERK  
17555 Peak Avenue  
Morgan Hill, CA 95037

RECORD AT NO FEE PURSUANT TO GOVERNMENT CODE SECTION 27383

NOTICE OF COMPLETION  
CITY OF MORGAN HILL

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NOTICE IS HEREBY GIVEN, pursuant to Section 3093 of the Civil Code of the State of California, that the Director of Public Works of the City of Morgan Hill, California, on the 26th day of August, 2003, did file with the City Clerk of said City, the contract for performing work which was heretofore awarded to Stevens Creek Quarry, Inc. on July 23rd, 2003, in accordance with the plans and specifications for said work filed with the City Clerk and approved by the City Council of said City.

That said improvements were substantially completed on May 14th, 2004, accepted by the City Council on June 2, 2004, and that the name of the surety on the contractor's bond for labor and materials on said project is Liberty Mutual Insurance Company.

That said improvements consisted of the construction and installation of all items of work provided to be done in said contract, all as more particularly described in the plans and specifications therefor approved by the City Council of said City.

Name and address of Owner: City of Morgan Hill  
17555 Peak Avenue  
Morgan Hill, California

Dated: \_\_\_\_\_, 20\_\_.

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Jim Ashcraft, Director of Public Works

I certify under penalty of perjury that the foregoing is true and correct.

Irma Torrez, City Clerk  
City of Morgan Hill, CA  
Date:



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: June 2, 2004***

**Agenda Item # 5**

**Prepared By:**

**Management Analyst**

**Approved By:**

**Department Director**

**Submitted By:**

**City Manager**

### **APPROVAL OF COPY MACHINE LEASE FOR POLICE DEPARTMENT AND AQUATICS CENTER**

#### **RECOMMENDED ACTION(S):**

1. Authorize a three year lease of two Savin C3828 digital copier systems through Rabbit Office Automation for the Police Department and the Aquatics Center, Subject to Review and Approval of the City Attorney; and
2. Declare the Police Department's Sharp SF2040 copier (serial #7051648) surplus and authorize disposal by the Purchasing Officer.

#### **EXECUTIVE SUMMARY:**

The Sharp copier in Police Administration is seven years old and was due for replacement two years ago. The Aquatics Center is opening June 2004 and will require a copier. A subcommittee from the Purchasing Study Team developed specifications and standards for copiers that would meet the various needs of City Departments. The model that meets the criteria for the Police Department and the Aquatics Center is the Savin 3828.

The subcommittee visited four local copier representatives: Sharp, Xerox, Konica-Minolta and Savin. The company that afforded us CMAS price and flexibility in the maintenance agreement was Rabbit Office Automation. Rabbit is prepared to meet the opening dates of our two new facilities with a 30 day demo period of both machines. Rabbit's maintenance agreement is also re-negotiable as we change our copying needs. Delivery, IT installation and training are included in the lease.

The cost to lease the copier over a three year period is \$16,812. The price per copy for color is .08 and for black/white is .0115. The lease includes support and supplies, excluding paper and staples. The copier lease is based upon CMAS contract number 3-01-36-0029AGSA.

Pending City Attorney review of the lease agreement, staff recommends accepting the 30 day demonstration period and with a satisfactory experience, starting the three year lease in July 2004. We are also asking Council to declare the Sharp copier surplus and authorize disposal by the Purchasing Officer.

#### **FISCAL IMPACT:**

The FY 2004-2005 budget includes funds for the first year of the lease of the copiers in Police Administration (010-3205) and Aquatics Center (010-2120).



## **CITY COUNCIL STAFF REPORT**

**MEETING DATE:** *June 2, 2004*

### **JOIN THE APPEAL CASE OF SILICON VALLEY TAXPAYERS ASSOCIATION, ET AL, V. SANTA CLARA COUNTY OPEN SPACE AUTHORITY**

#### **RECOMMENDED ACTION:**

**Authorize** the City Attorney to join the Cities of Santa Clara, San Jose, Milpitas and Campbell, and the County of Santa Clara, in support of the Santa Clara County Open Space Authority in the Sixth District Court of Appeal case of *Silicon Valley Taxpayers Association, et al., v. Santa Clara County Open Space Authority*.

#### **EXECUTIVE SUMMARY:**

The Cities of Santa Clara, San Jose, Milpitas and Campbell, and the County of Santa Clara, have asked Morgan Hill to join in the amicus brief being prepared in support of the Santa Clara County Open Space Authority ("SCCOA") in the Sixth District Court of Appeal case of *Silicon Valley Taxpayers Association, et al., v. Santa Clara County Open Space Authority*. A letter requesting support from the SCCOA and the draft *amicus* brief are attached for your review.

The SCCOA was formed in 1994 to preserve and protect open space in Silicon Valley. The SCCOA was funded by formation of an assessment district. That original assessment was challenged by a local taxpayers association, but was declared valid by the courts.

Due to rising land values and intensifying development pressures, in 2001 the SCCOA proposed the creation of another benefit assessment district. Because Proposition 218 was enacted in 1996, that act governed the implementation of the new assessment.

The plaintiffs are attempting to invalidate the new assessment district on the basis that the formation violated Proposition 218 in that (1) the assessment report did not identify specific parcels to be acquired, (2) the assessment report also did not identify parcels which would derive a special benefit from implementation of the assessment, (3) that there is not enough of a correlation between those parcels which would be assessed and the far-off parcels to be acquired, and (4) the SCCOA did not tabulate "informal" votes which were not on the formal ballot.

The amicus brief argues that the acquisition of open space is consistent with the goals stated in the General Plans of each agency, and thus the new assessment provides significant benefits in accomplishing those goals. The brief also argues that the new assessment provides a special benefit on each parcel within the agency's jurisdictions through this accomplishment of open space goals.

Staff recommends support of the amicus effort because of the reasons stated above.

#### **FISCAL IMPACT:**

Amicus participation does not entail payment of any funds, but merely addition of the City's name to the brief to be filed with the Sixth District Court of Appeal.

**Agenda Item # 6**

**Prepared By:**

**Helene L. Leichter**  
City Attorney

**Submitted By:**

**J. Edward Tewes**  
City Manager



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: June 2, 2004***

**Agenda Item #7**

**Prepared By:**

**Council Services &  
Records Manager/  
City Clerk**

**Submitted By:**

**City Manager**

### **MOBILE HOME RENT COMMISSION**

#### **RECOMMENDED ACTION:**

1. Accept Mark Moore's resignation effective May 31, 2004
2. Approve Mayor's appointment of incumbent Board Members Charles Dillmann, Robert Graham and John Liegl to serve two-year terms expiring June 1, 2006

#### **EXECUTIVE SUMMARY:**

The Mobile Home Rent Commission consists of a City Council-appointed 5-member Advisory Commission whose charge is to monitor the performance of the City's Mobile Home Rent Stabilization Ordinance. The make up of this Commission is as follows: one (1) mobile home park owner representative; one (1) mobile home park tenant representative; and three (3) at large members. There are three (3) Mobile Home Rent Commissioners whose terms are due to expire on June 1, 2004: Charles Dillmann, Robert Graham, and John Liegl. The City, for many years, has been unsuccessful in its efforts to find an individual who is willing to serve as a representative to the mobile home park owners.

Mark Moore, whose term is due to expire June 1, 2005, has tendered a letter of resignation from this Commission effective May 31, 2004 (see attached letter). Mr. Moore has served as the mobile home park tenant representative during his term on this Commission. Mr. Moore is recommending that the Council appoint Mr. Liegl as the mobile home park tenant's representative in his stead. Mr. Moore is to be commended for his willingness to serve on this Commission for the past 18 years. Mr. Moore will be invited to attend a future Council meeting so that the Council can extend its appreciation for his years of service.

Staff has conducted recruitment efforts for the past four months. Staff did receive applications for reappointment from Charles Dillmann, Robert Graham, and John Liegl. The City is fortunate that the three incumbents are willing to continue serving the City on the Mobile Rent Commission for another two-year term.

As the City is in receipt of only three applications to fill the five upcoming vacancies, Mayor Kennedy is recommending that the Council approve his appointment of Mr. Dillmann, Mr. Graham and Mr. Liegl. Further, that Mr. Liegl be appointed as the tenant's representative to the Mobile Home Rent Commission. Staff will continue its recruitment efforts to find qualified/eligible citizens interested in filling the two remaining vacancies.

**FISCAL IMPACT:** No budget adjustment is required.





***CITY COUNCIL STAFF REPORT***  
***MEETING DATE: JUNE 2, 2004***

**Agenda Item # 8**

**Prepared By:**

**Deputy City Clerk**

**Approved By:**

**City Clerk**

**Submitted By:**

**City Manager**

**ADOPT ORDINANCE NO. 1674, NEW SERIES**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT FOR APPLICATION MMP-03-01: NATIVE DANCER – QUAIL MEADOWS (APN 779-02-014) (DA-03-09: NATIVE DANCER – QUAIL MEADOWS)**

**RECOMMENDED ACTION(S):**

**Waive** the Reading, and **Adopt** Ordinance No. 1674, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

**EXECUTIVE SUMMARY:**

On May 19, 2004, the City Council Introduced Ordinance No. 1674, New Series, by the Following Roll Call Vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

**FISCAL IMPACT:**

None. Filing fees were paid to the City to cover the cost of processing this application.

**ORDINANCE NO. 1674, NEW SERIES**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT FOR APPLICATION MMP-03-01: NATIVE DANCER – QUAIL MEADOWS (APN 779-02-014) (DA-03-09: NATIVE DANCER – QUAIL MEADOWS)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:**

**SECTION 1.** The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

**SECTION 2.** The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

**SECTION 3.** The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No. 03-23, adopted April 22, 2003, has awarded allotments to a certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MMP-03-01: Native Dancer – Quail Meadows	2 allotments for Fiscal Year 2004-05
	4 allotments for Fiscal Year 2005-06

**SECTION 4.** References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill.

These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

**SECTION 5.** The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

**SECTION 6.** Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

**SECTION 7.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

**SECTION 8. Effective Date Publication.** This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 19th Day of May 2004, and was finally adopted at a regular meeting of said Council on the 2<sup>nd</sup> Day of June 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

**AYES: COUNCIL MEMBERS:**  
**NOES: COUNCIL MEMBERS:**  
**ABSTAIN: COUNCIL MEMBERS:**  
**ABSENT: COUNCIL MEMBERS:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Irma Torrez, City Clerk

\_\_\_\_\_  
Dennis Kennedy, Mayor

∞ **CERTIFICATE OF THE CITY CLERK** ∞

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,** do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1674, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 2<sup>nd</sup> Day of June 2004.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE:\_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**

**CITY OF MORGAN HILL  
SPECIAL CITY COUNCIL MEETING  
MINUTES – APRIL 28, 2004**

**CALL TO ORDER**

Mayor Kennedy called the special meeting to order at 7:02 p.m.

**ROLL CALL ATTENDANCE**

Present: Council Members Carr, Chang, Tate and Mayor Kennedy  
Absent: Council Member Sellers

**DECLARATION OF POSTING OF AGENDA**

City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

**PUBLIC COMMENT**

Mayor Kennedy opened the floor to public comments for items not appearing on this evening's agenda. No comments were offered.

***City Council***

**CONSENT CALENDAR:**

**Action:** *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Carr, the City Council unanimously (5-0), **Approved** Consent Calendar Item 1, as follows:*

**1. APPROVAL OF INSTALLATION OF PERCHLORATE REMOVAL SYSTEM FOR NORDSTROM WELL FOR SUMMER OF 2004**

**Action:** ***Authorized** Issuance of Purchase Order to US Filter in the Amount of \$158,082.*

**FUTURE COUNCIL-INITIATED AGENDA ITEMS**

No items were identified.

**ADJOURNMENT**

There being no further business, Mayor Kennedy adjourned the special meeting at 6:03 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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**IRMA TORREZ, CITY CLERK**

**CITY OF MORGAN HILL  
SPECIAL CITY COUNCIL MEETING  
MINUTES – MAY 19, 2004**

**CALL TO ORDER**

Mayor Kennedy called the special meeting to order at 5:02 p.m.

**ROLL CALL ATTENDANCE**

Present: Council Members Carr, Chang, Sellers, Tate and Mayor Kennedy

**DECLARATION OF POSTING OF AGENDA**

City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

**OPPORTUNITY FOR PUBLIC COMMENT**

Mayor/Chairman Kennedy opened the Closed Session items to public comment. No comments were offered.

**1. COYOTE VALLEY SPECIFIC PLAN DEVELOPMENT – MORGAN HILL AND SOUTH COUNTY PARTICIPATION**

Contract Planner Bischoff addressed the process.

Mayor Kennedy indicated that two members of the Coyote Valley Specific Plan Task Force were in attendance: Russ Danielson and Santa Clara County Supervisor Don Gage.

Supervisor Gage said that three issues were not adequately addressed at the Task Force meeting: Traffic; greenbelt; and addressing citizens concerns. He felt that the plan was too aggressive. He said that there were a lot of questions raised by citizens. He said that input is being received, but not being addressed at this time.

Mayor Kennedy indicated that the City of Morgan Hill held a meeting with the City of San Jose Planning staff in order to address the City's concerns. He requested that individuals in attendance address their concerns to determine what common threads exist within the group.

Steve Kinsella, Gavilan College President, indicated that the Coyote Valley Specific Plan (CVSP) would create a college population base far north from the Gilroy campus site. He felt that this area will grow large enough and will need a full campus. He stated that Gavilan College will be in Coyote Valley and that the College is looking toward purchasing land. He said that he is interested in working with the City of San Jose to incorporate Gavilan's plans. He noted that the citizens have approved bond funding, which would help pay for a new campus.

Mayor Pro Tempore Sellers said that the citizens of Morgan Hill, Hollister and Gilroy voted for a bond measure. He inquired whether south county bond funds will be spent in San Jose.

Mr. Kinsella he said that when this area develops out, there will be expectations that Gavilan College provide educational services. He said that there are State bond funds to help with expansion costs.

George Panos, Morgan Hill Unified School District Board (MHUSD) Chairman, said that land allocation for schools, transportation, and whether development impact fees will be adequate to build facilities are the School District's concerns.

Dr. Carolyn McKennan, MHUSD Superintendent, expressed concern with the information received relative to the size of schools and the reduced number of acres allocated per school. She was also concerned that increased urban standards anticipated were being used for a more suburban school district. She indicated that there has been discussion of a multi story school facility. She stated that the school district needs to be involved in the school planning process. It is important to know what developer fees will be generated and whether they will cover construction costs.

Shelle Thomas MHUSD Vice-chair, stated that the MHUSD is looking at an organizational approach. She felt that the more information one can obtain, the better off everyone will be. She questioned the feasibility of State funds alone to cover costs and was concerned about the impact development of Coyote Valley would have on the community.

Paul Correa, City of Gilroy Council Member, expressed concern with the following: impacts to the housing market, traffic, improvements to the freeway, and air quality which will be worse in the entire county. He would like this group to be involved in the decision making process. He noted that both Gilroy and Morgan Hill are growth control cities. He stated that jobs and housing need to be developed simultaneously so that development in Coyote Valley does not impact other communities. He also questioned the willingness of the City of San Jose to listen to our concerns.

Melissa Durkin, City of Gilroy Planning Staff Member, also expressed concern with the impact development of Coyote Valley would have on housing in Gilroy. She wanted to make sure that the City of San Jose meets housing needs, and that their proposed housing program is reviewed critically.

Supervisor Gage addressed the following: 1) Traffic Impacts – Coyote Valley Specific Plan proposes 80,000+ citizens which will have a great impact to roads. Citizens will utilize Highway 101, Monterey Road and Santa Teresa Boulevard to access the valley. He expressed his doubts regarding the base assumption that 80% of trips would be coming from the north. He stated that individuals would be utilizing interior roads, resulting in more traffic and impact to county roads. He recommended that a traffic impact fee be initiated by cities/County in order to have funds to fix roads. Transportation is a big issue because the City of San Jose proposes a walkable community. He said that a significant number of individuals will require bus service. 2) Housing – Individuals will move south to purchase homes, impacting the Cities of Morgan Hill and Gilroy as well as Santa Cruz, San Benito and Monterey Counties. 3) Parks will be impacted- He noted that every agency is experiencing financial constraints

with further cuts possible, with Parks/Recreation typically being the first to be cut. 4) Education – He expressed the need to plan for educational facilities and provide adequate funding.

Alex Kennett, Open Space Authority, expressed concerned with the preservation of wildlife and open space issues. He felt that it was important that the hillsides of Coyote Valley remain undeveloped. He recommended that an environmental review be included. Development should complement Morgan Hill's greenbelt and urban limit proposals. He felt that quality of life issues should be addressed.

Connie Ludewig, San Martin Neighborhood Association, expressed concern with traffic, increased impacts to the aquifers, and impacts to aesthetics of the area and overall quality of life.

Wendy Rooney, City of Gilroy Community Development Director, expressed concern about traffic impacts that would spread to South County. She indicated that community members are moving to Los Banos and Watsonville in order to afford to purchase a home. She inquired whether the focus group should be expanded to include representative of adjacent counties.

Mr. Bischoff addressed the City of Morgan Hill concerns as follows: 1) traffic impacts in light of 50,000 jobs and 25,000 housing units being proposed; 2) Housing to be developed concurrently with the creation of jobs, including affordability; 3) schools will need to be provided concurrently with or in advance to housing being developed; 4) develop a strategy to ensure that greenbelts remain undeveloped; 5) medical facility – Morgan Hill would like the opportunity to reopen an acute hospital; and 7) regional commercial needs of Coyote Valley residents can be accommodated by lands appropriately zoned in Morgan Hill. There is a concern with the types of potential commercial development in Coyote Valley.

Supervisor Gage stated that he suspects that individuals who will be vying for the jobs in Coyote Valley will be individuals who currently work in Silicon Valley and live south of Coyote Valley. They will apply for these job in order to work closer to home.

Associate Planner Tolentino addressed the common concerns expressed by the group, including traffic and financing.

Mr. Bischoff addressed six possible alternatives for participation in the process. 1) Request membership on Task Force. He indicated that the City of Morgan Hill has asked to be allowed to participate and has been denied twice; 2) Increase participation in Coyote Valley meetings; 3) Request regular meetings with San Jose Staff (enhanced outreach). He said that a City of San Jose representative has indicated that they would be willing to do so; 4) Request regular meetings with South County representatives who serve on the Task Force; 5) Draft formal comments to the Task Force at appropriate stages of Specific Plan development; 6) Request adequate time be provide meaningful comments. He said that the process has been moving very quickly and that the timeline does not allow meaningful dialogue.

Supervisor Gage said that he would be willing to champion South County's concerns at the Board level. He said that it would be helpful to have regular communication from all agencies to ensure that concerns and comments become part of the record. He felt that the issues of the community need to be addressed.

He said the more the South County representatives communicate with him the more he would communicate to the task force.

Mayor Pro Tempore Sellers stated that it was exciting to see everyone come together on this issue, and felt that the South County concerns need to be heard. He requested that Supervisor Gage relay to the Task Force how concerned South County is about the Coyote Valley Specific Plan.

Mayor Kennedy felt that the purpose of this group is to find a way to bring all interests together and develop a list of comments that the Task Force should consider. He felt that formation of a working group would be an appropriate approach to take.

MHUSD Vice-chair Thomas said that it would be important to have access to the City of San Jose's consultants (e.g., market analysis, economic planning, etc.). This would allow corrections to be made as the process moves forward.

Mayor Kennedy stated that he met with Mayor Gonzales this morning and that he has offered to meet with a subcommittee of this group or a representative of this group. He felt that this was a good faith effort on Mayor Gonzales' part, one that is appreciated. A future step would be to identify a subcommittee who would represent this group. This does not mean that individual interests could not be pursued. He said that the City of Morgan Hill has had a good response from the City of San Jose Planning Department. He said that there are three layers in the process: San Jose Planning Staff, Coyote Valley Specific Plan (CVSP) Task Force, and the City of San Jose City Council. He felt that as a group, we would have a better chance to have our concerns addressed at the highest level.

Supervisor Gage noted that this type of development will require expansion of the sewer plant, impacting wildlife. The City of San Jose will be forced to work with responsible agencies and participate in the Habitat Conservation Plan process. He felt that there are pressure points that will be identified as this is a big environmental issue.

Council Member Tate said that a lot of common issues have been expressed and that an assumption has been made that this development will be self contained which is a false assumption. He felt that it was important for us to challenge these assumptions.

Russ Danielson, Coyote Valley Specific Plan Task Force Member, expressed the importance of all interested parties attending Saturday workshops.

Council Member Carr noted that several individuals attending this meeting feel that issues are important and should be relayed to each member of the Task Force. He requested that the group's common concerns be forwarded to the City of San Jose, requesting that each agency in attendance review and concur with the commonalities before forwarding them to the Task Force.

Mayor Pro Tempore Sellers recommended a follow up meeting be held with Mayor Gonzales, and a decision be made as to the appropriate number of individuals who should meet with him.



Rebecca Van Dalin, South County Realtors, recommended that someone from the real estate board be included in the meetings. She indicated that she has been attending the task force meetings. She expressed concerns as a resident of Morgan Hill, that there is a common belief that MHUSD is just for Morgan Hill and not a larger boundary. She felt that growth and votes will be shifted to San Jose and that individuals need to realize that this will impact schools. She said that the Task Force has offered a Santa Clara County Realtor Board member a position on the Task Force and that the Realtor Board could also be a voice for South County. She stated she would continue to attend future meetings.

Bob Eltgroth, resident of Morgan Hill, indicated that there have been discussions about traffic into the area but that impact of existing traffic and transportation has not been addressed.

Brian Schmidt indicated that the Committee for Green Foothills has been following growth and would like to be involved with agencies that have environmental concerns. He appreciated Supervisor Gage's candor as to the types of issues that are involved. He inquired whether agencies were willing to litigate environmental issues. He felt that the submittal of formal comments would be important. He said that the only reason the City of San Jose is expediting the process is so that it can be completed before Mayor Gonzales leaves office.

Bob Wilson said that representation on the Technical Advisory Committees would be important. He said that the consultant is looking for input on metrics and size of schools.

Dr. McKennan said that she has provided information at the technical meetings relative to school issues. However, she feels that written comments are more effective.

Jessica Vernon recommended that individuals at this meeting attend the task force meetings as well as the technical meetings. She expressed concern that the basis of this plan is for 50,000+ industrial jobs, 25,000 housing units and 80,000 citizens. Can the acreage accommodate this size of development?

Those in attendance felt that a follow up meeting was in order.

Mayor Kennedy stated that staff will coordinate the scheduling of a follow up meeting.

### **ADJOURNMENT**

There being no further business, Mayor Kennedy adjourned the meeting at 5:59 p.m.

### **MINUTES RECORDED AND PREPARED BY:**

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**IRMA TORREZ, CITY CLERK**

**CITY OF MORGAN HILL  
SPECIAL CITY COUNCIL MEETING  
MINUTES – MAY 21, 2004**

**CALL TO ORDER**

Mayor Kennedy called the special meeting to order at 4:00 p.m.

**ROLL CALL ATTENDANCE**

Present: Council Members Carr, Chang, Sellers, Tate and Mayor Kennedy  
Absent: Council Member Chang

**DECLARATION OF POSTING OF AGENDA**

The meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

**CLOSED SESSION:**

**1.**

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Legal Authority:	Government Code Sections 54956.9(b) & (c)
Number of Potential Cases:	1

**OPPORTUNITY FOR PUBLIC COMMENT**

No comments were offered.

**ADJOURN TO CLOSED SESSION**

Mayor Kennedy adjourned the meeting to Closed Session at 4:01 p.m.

**RECONVENE**

Mayor Kennedy reconvened the meeting at 5:00 p.m.

**CLOSED SESSION ANNOUNCEMENT**

Mayor Kennedy announced that no reportable action was taken in closed session.

**ADJOURNMENT**

There being no further business, Mayor Kennedy adjourned the meeting at 5:01 p.m.

**MINUTES PREPARED BY:**

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**IRMA TORREZ, CITY CLERK**

**CITY OF MORGAN HILL  
SPECIAL CITY COUNCIL MEETING  
MINUTES – MAY 26, 2004**

**CALL TO ORDER**

Mayor Kennedy called the special meeting to order at 7:02 p.m. in conjunction with the Joint Special and Regular Redevelopment Agency and Special City Council Meeting of May 26, 2004.

**ROLL CALL ATTENDANCE**

Present: Agency/Council Members Carr, Chang, Sellers, Tate and Chairperson/Mayor Kennedy  
Absent: Agency/Council Member Chang excused herself from the meeting at 7:06 p.m.

**DECLARATION OF POSTING OF AGENDA**

Deputy Agency Secretary/Deputy City Clerk Malone certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

***City Council Action***

**CLOSED SESSIONS:**

1.

**EXISTING LITIGATION**

Authority:	Government Code section 54956.9(a)
Name of Case:	Hacienda Valley Mobile Estates v. City of Morgan Hill.
Case Number:	United States Supreme Court 03-1571

**OPPORTUNITY FOR PUBLIC COMMENT**

Mayor Kennedy opened the Closed Session items to public comment. No comment being offered, the public comment was closed.

**ADJOURN TO CLOSED SESSION**

Mayor Kennedy adjourned the meeting to Closed Session at 7:52 p.m.

**RECONVENE**

Mayor Kennedy reconvened the meeting at 9:30 p.m.

**CLOSED SESSION ANNOUNCEMENT**

City Attorney Leichter announced that authority was given to sue in the Hacienda matter.

**FUTURE COUNCIL-INITIATED AGENDA ITEMS**

No items were identified.

**ADJOURNMENT**

There being no further business, Mayor Kennedy adjourned the meeting at 9:32 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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**MOIRA MALONE, DEPUTY AGENCY SECRETARY/DEPUTY CITY CLERK**



***CITY COUNCIL STAFF REPORT***  
***MEETING DATE: JUNE 2, 2004***

**Agenda Item # 13**

**Prepared By:**

**Deputy City Clerk**

**Approved By:**

**City Clerk**

**Submitted By:**

**City Manager**

**ADOPT ORDINANCE NO. 1675, NEW SERIES**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT, DA 04-02 FOR APPLICATION MP 04-01: CENTRAL-SOUTH COUNTY HOUSING. (APNS 726-24-07, 022, 023 & 024)**

**RECOMMENDED ACTION(S):**

**Waive** the Reading, and **Adopt** Ordinance No. 1675, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

**EXECUTIVE SUMMARY:**

On May 19, 2004, the City Council Introduced Ordinance No. 1675, New Series, by the Following Roll Call Vote: AYES: Carr, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Chang.

**FISCAL IMPACT:**

No budget adjustment required.

**ORDINANCE NO. 1675, NEW SERIES**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT, DA 04-02 FOR APPLICATION MP 04-01: CENTRAL-SOUTH COUNTY HOUSING. (APNS 726-24-07, 022, 023 & 024)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

**SECTION 2.** The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

**SECTION 3.** The Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded 9 affordable building to that certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MP 04-01: Central-South County Housing	9 Single-Family Attached Homes

**SECTION 4.** References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

**SECTION 5.** The City Council hereby finds that the Residential Development Agreement and Development Proposal approved by this ordinance are compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

**SECTION 6.** Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

**SECTION 7.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

**SECTION 8. Effective Date Publication.** This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 19th Day of May 2004, and was finally adopted at a regular meeting of said Council on the 2<sup>nd</sup> Day of June 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

**AYES: COUNCIL MEMBERS:**  
**NOES: COUNCIL MEMBERS:**  
**ABSTAIN: COUNCIL MEMBERS:**  
**ABSENT: COUNCIL MEMBERS:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Irma Torrez, City Clerk

\_\_\_\_\_  
Dennis Kennedy, Mayor

**∞ CERTIFICATE OF THE CITY CLERK ∞**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,** do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1675, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 2<sup>nd</sup> Day of June 2004.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**



**CITY COUNCIL & REDEVELOPMENT**  
**AGENCY STAFF REPORT**

**MEETING DATE: June 2, 2004**

**Agenda Item # 14**

**Prepared By:**

\_\_\_\_\_  
**Finance Director**

**Submitted By:**

\_\_\_\_\_  
**City Manager**

**INVESTMENT POLICY UPDATE**

**RECOMMENDED ACTIONS:**

- 1) Review and adopt the updated Investment Policy for the City.
- 2) Review and adopt the updated Investment Policy for the Redevelopment Agency

**EXECUTIVE SUMMARY:** Section 53646(a)(2) of the Government Code requires that "...the treasurer or chief fiscal officer shall annually render to the legislative body of that local agency and any oversight committee... a statement of investment policy, which the legislative body of the local agency shall consider at a public meeting. Any change in the policy shall also be considered by the legislative body of the local agency at a public meeting..." In compliance with this requirement, staff is bringing the attached proposed separate investment policies for the City (Exhibit A) and Redevelopment Agency (Exhibit B) for your review. These policies were last updated and adopted by the City Council and Redevelopment Agency Board of Directors in May of 2003.

The Finance and Audit Committee, which includes the City Treasurer, has reviewed the current policy. No changes are recommended at this time.

Since State law also requires that this Investment Policy be submitted to the California Debt and Investment Advisory Committee, staff will submit the new policy to the State following adoption.

**FISCAL IMPACT:** The attached proposed Investment Policy continues to provide that the first priority in investing City and Redevelopment Agency funds is the safety of those funds, the second priority is the liquidity of those funds, and the third priority is the yield on those investments. Safety is paramount and is reflected in the types of investments allowed under the policy.



**EXHIBIT A**

CITY OF MORGAN HILL

**STATEMENT OF INVESTMENT POLICY**

JUNE 2, 2004

**CITY OF MORGAN HILL**  
**Statement of Investment Policy**

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CITY OF MORGAN HILL  
**Statement of Investment Policy**

INTRODUCTION

*The investment policy and practices of the City of Morgan Hill are based upon state law, city ordinances, prudent money management and the "prudent person" standards. The primary goals of this policy are to invest public funds to:*

1. *Meet the daily cash flow needs of the City.*
2. *Comply with all laws of the State of California regarding the investment of public funds.*
3. *Achieve a reasonable rate of return while minimizing the potential for capital losses arising from market changes or issuer default.*
4. *Encourage local economic benefits to the City of Morgan Hill residents and businesses by investing in local financial institutions, subject to legal control.*

**SCOPE**

The investment policy applies to all funds under the control of the City Council of the City of Morgan Hill, including but not limited to the general revenues of the City, enterprise fund revenues and proceeds of bond sales, debt service revenues and trust funds in the custody of the City. These funds are accounted for in the comprehensive annual financial reports of the City of Morgan Hill.

**INVESTMENT OBJECTIVES**

**A. Safety of Principal**

Safety of principal is the City's foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure that capital losses resulting from institution default, broker-dealer default, or the erosion of market value are avoided. The City shall seek to preserve principal by mitigating the two types of risk: credit risk and market risk.

1. Credit risk, defined as the risk of loss due to failure of the issuer of a security, shall be mitigated by investing in only the highest quality securities (see authorized investments) and by diversifying the investment portfolio so that the failure of any one issuer would not unduly harm the City cash flow.

2. Market risk, defined as the risk of market value fluctuations due to overall changes in the general level of interest rates, shall be mitigated by structuring the portfolio so that securities mature at the same time that major cash outflows occur, this eliminating the need to sell securities prior to maturity; and by prohibiting the taking of short positions, that is, selling securities that the City does not own. It is explicitly recognized, however, that in a diversified portfolio, occasional measured losses may occur, and must be considered within the context of the overall investment return.

**B. Liquidity**

Liquidity is the second most important objective of the investment program. The investment portfolio shall remain sufficiently liquid to enable the City to meet all operating requirements. At all times, at least 50% of the total portfolio shall be invested for periods of three years or less; at least 30% of the total portfolio shall be invested for two years or less; at least 20% of the total portfolio shall be invested for one year or less. At no time will a security in the portfolio mature in more than five years except bond reserve funds, bond escrow funds and any funds approved by the City Council to be appropriate for a longer period.

**C. Yield**

The City portfolio shall be invested to attain a market average rate of return through economic cycles, as long as it does not diminish the objectives of Safety and Liquidity. The market rate of return is defined as the average return on the one-year U.S. Treasury Bill. Whenever possible and in a manner consistent with the objectives of safety of principal and liquidity, a yield higher than the market rate of return shall be sought.

**AUTHORITY TO INVEST FUNDS**

The City Council has appointed the City Treasurer responsible for undertaking investment transactions on behalf of the City. Unless specifically designated by the City Council, the only officials authorized to undertake investment transactions on behalf of the City are the City Treasurer, Deputy City Treasurer and City Manager. The City Manager shall review all investment purchases before they occur. The City Treasurer and City Manager will observe, review and react to the changing conditions that affect the investment portfolio. They will meet on a regular basis to discuss current market conditions, future trends and how each of these affects the investment portfolio and the City. The City Treasurer and City Manager shall establish a system of controls to ensure compliance with the City's investment policy.

**INTERNAL CONTROL**

The City Treasurer is responsible for ensuring compliance with the City investment policies as well as establishing investment related internal controls designed to prevent losses due to fraud, employee error, misrepresenting by third parties, or unanticipated changes in financial markets.

## **ETHICS AND CONFLICTS OF INTEREST**

Officer and employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Employees and investment officers shall disclose any material financial interests in financial institutions that conduct business within this jurisdiction, and they shall further disclose any larger personal financial/investment positions that could be related to the performance of the City's portfolio. Employees and officers shall subordinate their personal investment transactions to those of the City, particularly with regard to the timing of purchases and sales, and shall avoid transactions that might impair public confidence in the City's ability to govern effectively.

## **EVALUATION OF INVESTMENTS**

The actions of City investment officers in the performance of their duties as managers of public funds shall be evaluated using the following "prudent person" standard applied in the context of managing the overall portfolio:

*Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the professional management of their business affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.*

City investment officers acting in accordance with written policies and the "prudent person" standard and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided that substantial deviations from expectations are reported by the Treasurer to the City Manager within three days of discovery. Mutually agreeable remedial action will be taken by the Treasurer and City Manager and reported to the City Council at their next regularly scheduled meeting.

## **AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS**

The City shall transact business only with banks and savings and loans, and investment securities dealers which/who comply with Schedule III (Policy Criteria for Selecting Broker/Dealers) attached. The City Treasurer will maintain a list of financial institutions authorized to provide investment services. He will also maintain a list of approved security brokers/dealers selected by credit worthiness who are authorized to provide investment services to the City. The dealers must be primary dealers regularly reporting to the Federal Reserve Bank. Exceptions to the primary dealer rule may be made with the approval of the City Council, provided they are consistent with California Government Code Section 53601.5.

All primary financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply an audited financial statement, and U4 Form for the broker,

completed broker/dealer questionnaire (see Schedule III) and certification of having read the City's investment policy. All secondary financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply an audited financial statement, proof of National Association of Securities Dealers certification, trading resolution, proof of state registration, completed broker/dealer questionnaire (see Schedule 111), U4 Form for the broker and certification of having read the City's investment policy. The City Treasurer shall determine if they are adequately capitalized, make markets on securities appropriate to the City's needs and are recommended by managers of portfolios similar to the City. The City Treasurer shall submit his findings and recommendations to the City Council. As part of their annual review of the Investment Policy, the Council will determine which broker/dealers will be authorized to trade with the City.

An annual review of the financial condition and registration of qualified bidders will be conducted. A current audited financial statement is required to be on file for each financial institution and broker/dealer in which the City invests.

The City shall at least annually send a copy of the current investment policy to all financial institutions and broker/dealers approved to do business with the City. Confirmation of receipt of this policy shall be considered evidence that the dealer has read and understands the City's investment policy and will recommend and execute only transactions suitable for and in compliance with the City's investment policy.

### **AUTHORIZED INVESTMENTS**

The City is authorized by California Government Code Section 53600, et. seq. to invest in specific types of securities. The City has further limited the types of securities in which we may invest. Any security not listed, is not a valid investment for the City. The concise list of approved securities is as follows:

- A. United States Treasury Bills, Bonds, and Notes, or those for which the full faith and credit of the United States are pledged for payment of principal and interest. There is no limitation as to the percentage of the portfolio which can be invested in this category.
- B. Obligations issued by United States Government Agencies such as, but not limited to, the Government National Mortgage Association (GNMA), the Federal Farm Credit Bank System (FFCB), the Federal Home Loan Bank (FHLB), the Federal National Mortgage Association (FNMA), the Federal Home Mortgage Corporation (FHLMC), the Student Loan Marketing Association (SLMA), and the Tennessee Valley Authority (TVA). Although there is no percentage limitation of the dollar amount that can be invested in these issuers, the "prudent person" rule shall apply for any single agency name.
- C. The Local Agency Investment Fund (LAIF), established by the State Treasurer for the benefit of local agencies and identified under Government Code Section 16429.1 is authorized up to the maximum amount permitted by State Law.

- D. The City may place funds in inactive deposits with Banks and Savings and Loans with a branch within California that have a rating of at least "A-1" from the Financial Directory or an equivalent rating from another generally recognized authority on ratings, and have an Equity to Total Assets ratio of at least 4%. All deposits shall be secured in accordance with Sections 53651 and 53652 of the California Government Code and comply with Schedule I (Policy Statement of Collateralized Time Deposits) attached. If deposits are not collateralized, the maximum placed at any one institution will be \$100,000. The maximum amount of collateralized inactive deposits placed at any one institution shall not constitute more than 10% of the total assets of the institution or \$2,000,000, whichever is less, and shall not exceed the total shareholders' equity of the issuing institution.
- E. The City may invest in the Dreyfuss Treasury Cash Management Fund as an overnight sweep account in conjunction with contracting with South Valley National Bank for banking services.

### **INVESTMENT POOLS**

The Local Agency Investment Fund (LAIF) is authorized under provisions in Section 16429.1 of the California Government Code. The City's participation in the pool was previously approved by the City Council. The City will investigate all local government investment pools (LGP) prior to investing and periodically thereafter while the City is invested in the pool.

### **SAFEKEEPING OF SECURITIES**

To protect against potential losses by the collapse of individual securities dealers, all securities owned by the City shall be held in safekeeping by a third party bank trust department acting as agent for the City under the terms of a custody agreement executed by the bank and the City. All securities will be received and delivered using standard delivery-versus-payment (DVP) procedures. The third party bank trustee agreement must comply with Section 53608 of the California Government Code. No outside broker/dealer or advisor may have access to City funds, accounts or investments, and any transfer of funds to or through an outside broker/dealer must be approved by the City Treasurer.

### **DIVERSIFICATION**

The City will diversify its investments by security type and investment. With the exception of bond reserve funds, bond escrow funds, and any other funds approved by the City Council, at all times at least 50% of the total portfolio shall mature in three years or less; at least 30% of the total portfolio shall mature in two years or less; at least 20% of the portfolio shall mature in one year or less.

## **MAXIMUM MATURITIES**

The City will attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, as approved by the City Council, the City will not directly invest in securities maturing more than five years from the date of purchase. Bond reserve funds, bond escrow funds, and any other funds approved by the City Council may be invested in securities exceeding five years if the maturities of such investments are made to coincide as nearly as possible with the expected use of the funds.

## **BOND PROCEEDS**

The City will direct the investment of proceeds on bonds issued as instructed in the bond indenture. Securities authorized by the bond indenture that are not authorized by the City's investment policy will only be used if they are specifically approved by the City Council. Unless otherwise approved by the City Council, all securities will be held in third-party safekeeping with the bond trustee, and all delivery-versus-payment rules will apply. Fees will be collected annually to compensate for administration costs.

## **REPORTING REQUIREMENTS**

The City Treasurer shall render a report of investment activity to the City Council within 30 days following the end of the quarter. The report will include the type of investment, issuer, date of maturity, and par and dollar amount invested, on all securities, investments and monies held by the City. The report shall state market value and the source of the valuation, and state that the portfolio is in compliance with the policy or the manner in which it is not in compliance. The report will also include a statement denoting the ability to meet the City's expected expenditure requirements for the next six months or provide an explanation as to why sufficient money is not available. The report date will be the actual month-end date unless the last day of the month falls on a weekend or legal holiday. If the last day of the month is a weekend or legal holiday, the date of month-end report will be the last business day prior to the end of the month.

## **INVESTMENT POLICY ADOPTION**

The City Treasurer shall submit an annual Statement of Investment Policy to the City Council for their approval. This statement shall be presented before June 30 of each year.

## **INVESTMENT POLICY REVIEW**

The City's independent Certified Public Accountant shall annually review and make recommendations regarding the City investment policies to the extent considered necessary as required by generally accepted auditing standards as they relate to the annual financial audit which includes cash and investments.



## CITY OF MORGAN HILL

### ***POLICY STATEMENT ON COLLATERALIZED TIME DEPOSITS*** SCHEDULE I

Before the Treasury can place a time deposit with a local bank or savings and loan, the following, criteria must be met:

1. The bank must provide us with an executed copy of the "Contract for Deposit for Moneys" as specified in Section 53649 of the California Government Code.
2. The interest rate on the Time Certificate of Deposit must be competitive with rates offered by other banks and savings and loans and must exceed the interest rate for treasury bills for a similar maturity period.
3. For investments less than \$ 100,000, FDIC insurance will be sufficient without requiring any collateral to be pledged with the Federal Reserve to secure the public fund deposit.
4. For investments exceeding \$100,000, there may be a waiver of collateral for the first \$100,000 deposited, and all of the funds placed on deposit must be collateralized by 105% of U.S. Treasury or Federal Agency securities, or by 150% of mortgages having maturities less than five years in accordance with Section 53652 of the California Government Code. The City must receive confirmation that these securities have been pledged in repayment of the time deposit. The securities pledged must be maintained at a current market value 10% greater than the dollar amount of the deposit.
5. The City must be given a current audited financial statement for the financial year just ended as well as the most recent quarterly statement of financial condition. The financial reports must both include a "statement of financial condition" as well as an "income statement" depicting current and prior year operations.
6. The City will not place a fund deposit for more than \$2,000,000, or 10% of the assets of the institution, whichever is less.
7. The City must receive a certificate of deposit which specifically expresses the terms governing the transaction, (i.e., the period of time, name of depositor, interest rate, etc.).
8. All time certificates must have a maturity period not exceeding two years from the date of deposit with quarterly payments of interest based upon the stated interest rate.
9. The City must also receive a letter from the comptroller and/or treasurer of the bank at the time the deposit is made, that there is no known pending financial disclosure or public announcement of an adverse financial event involving the bank or savings and loan, nor is there any knowledge that a conflict of interest situation exists with any City official, officer or employee at the time the bank is receiving this deposit. The City has a fiduciary responsibility to make prudent investment of public funds, and to assure our investment practices are absent of any financial inducement or conflict in interest whatsoever.

10. Time deposits will only be made with qualified banks and savings and loans having branch office locations within Santa Clara County. However, time deposits with a bank or savings and loan must be centralized at one designated office location rather than making separate deposits with each branch office.

CITY OF MORGAN HILL

*POLICY CRITERIA FOR SELECTING BROKER/DEALERS*  
SCHEDULE II

1. All primary financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply an audited financial statement, and U4 Form for the broker, completed broker/dealer questionnaire (made a part of this Schedule) and certification of having read the City's investment policy. All secondary financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply an audited financial statement, proof of National Association of Securities Dealers certification, trading resolution, proof of state registration, completed broker/dealer questionnaire (made a part of this Schedule), U4 Form for the broker and certification of having read the City's investment policy.
2. The net capital position of the firm shall be in excess of \$ 100 million.
3. The City Treasurer's intent is to enter into a long-term relationship. Therefore, the integrity of the firm and the personnel assigned to our account is of primary importance.
4. The firm must state in writing its willingness to be bound by the City's written Investment Policy Guidelines.
5. The firm must provide an active secondary market for the securities it sells.
6. The firm must specify the types of securities it specializes in and will be made available for our account.
7. It is important that the firm provide related services that will enhance the account relationship which could include:
  - a) An active secondary market for its securities.
  - b) Internal credit research analysis on commercial paper, banker's acceptances and other securities it offers for sale.
  - c) Be willing to trade securities on our portfolio.
  - d) Be capable of providing market analysis, economic projections, newsletters.
  - e) Provide market education on new investment products, security spread relationships, graphs, etc.
8. The firm must be willing to provide us annual financial statements.
9. If requested, the firm must be willing to provide us a list of local government clients or other references, particularly those client relationships established within the State of California.

10. The City is prohibited from the establishment of a broker/dealer account for the purpose of holding the City's securities. All securities must be subject to delivery at the City's custodial bank.
11. Without exception, all transactions are to be conducted on a "delivery vs. payment" basis.
12. The broker/dealer shall be headquartered or have a branch office in California- Except for the above, the City will not conduct security transactions with any firm located out of state.
13. The broker/dealer must have been in operation for more than 5 years, and must have net capital in excess of \$100 million.
14. No business relationship shall be established with firms engaged in the sale of "exotic" products. Exotic means "unusually high yields," no ready secondary market, "high price volatility" on the security.
15. The firm must be registered with the State of California's regulatory agency.
16. No broker/dealer or security firm shall be selected who has made a political contribution to the local treasurer or any member of the City Council or the Redevelopment Agency governing board or to any candidate for these offices.

## Broker/Dealer Questionnaire

**Name of Firm:**

**Address:**

**Telephone No.:**

**Primary representative**

**Manager**

**Name:**

**Title:**

**Telephone No:**

1. Are you a recognized primary dealer in Government securities?  
( ) Yes ( ) No
2. If so, how long has your firm been a primary dealer?  
\_\_\_\_\_ years.
3. Are you a retail or institutional brokers?
4. What was your firm's total volume in U. S. Government and agency securities trading last year?  
Firm-wide \$ \_\_\_\_\_  
Your office \$ \_\_\_\_\_
5. Which instruments are offered regularly by your trading desk?  
( ) T-bills ( ) BA's (domestic)  
( ) T-notes and bonds ( ) BA's (foreign)  
( ) Agencies (specify) ( ) Commercial Paper  
FFCB, FHLB, FNMA ( ) Bank C. D.'s

FHLMC, SLMA, TVA

( ) S & L C. D.'s

WORLD BANK

( ) Repurchase Agreements

( ) Medium Term Corporate Notes

( ) Reverse Repurchase  
Agreements

( ) Mutual Funds (eligible for public investment)

6. Identify all personnel who will be trading with or quoting securities to the City.

Name

Title

Phone

7. Please identify your most directly comparable City/Local Agency clients in our geographical area.

Entity

Contact Person

Phone

Client  
Since

8. Is there anything in your background in the government securities business that makes you stand out above the rest? Why should the City of Morgan Hill deal with you?

9. Have any of your public sector clients ever sustained a loss on a securities transaction arising from a misunderstanding or misrepresentation of the risk characteristics of a particular instrument? If so, please explain.

10. Has any public sector client ever claimed in writing that your firm was responsible for investment losses? Explain.

11. Has your firm consistently complied with the Federal Reserve Bank's capital adequacy guidelines? Include certified documentation of your capital adequacy as measured by Federal Reserve standards.

12. Please provide certified financial statements and other statements regarding your firm's capitalization.

13. Please include samples of research reports that your firm regularly supplies to public

sector clients.

14. Are you a Broker instead of a Dealer (i.e. you DO NOT own positions of securities)?
15. What reports, transactions, confirmations and paper trail would the City receive?
16. What training information would you provide to our employees and investment officers?
17. How many and what percentage of your transactions failed last month? Last year?
18. What portfolio information do you require from clients?

***--CERTIFICATION--***

I hereby certify that I have personally read the City of Morgan Hill's Investment Policy and the California Government Codes pertaining to the investments of the City of Morgan Hill, and have implemented reasonable procedures and a system of controls designed to preclude imprudent investment activities arising out of transactions conducted by our firm on behalf of the City of Morgan Hill, considering the City's investment objectives, strategies and risk constraints. We pledge to exercise due diligence in informing the City Treasury staff of all foreseeable risks associated with financial transactions conducted with our firm. I attest to the accuracy of our responses to the above questionnaire.

NOTE: Completion of this questionnaire is only part of the City of Morgan Hill's Certification process and DOES NOT guarantee that the applicant will be approved to do business with the City.

SIGNED  
(Account Representative)

SIGNED  
(Countersigned by Company President or person in charge of government securities operations.)

DATED

CITY OF MORGAN HILL

***FIRMS AUTHORIZED TO CONDUCT INVESTMENT TRANSACTIONS***  
SCHEDULE III

The City is authorized to conduct investment security transactions with the following investment firms and broker/dealers, many of which are designated by the Federal Reserve Bank as primary government dealers. Security transactions with firms, other than those appearing on this list, are prohibited.

A. Firms designated by the Federal Reserve Bank as Primary Government Dealers:

None

B. Other authorized firms:

Union Bank of California  
Fahnestock & Co., Inc.



**CITY OF MORGAN HILL**                      **SCHEDULE IV**  
**Authorized Investments Ranked by Authority and Degree of Risk**  
**June 2, 2004**

<b>AUTHORIZED INVESTMENTS</b>	<b>DIVERSIFICATION</b>	<b>PURCHASE RESTRICTIONS</b>
<b>U.S. TREASURY BILLS &amp; NOTES</b>	<b>No Limit</b>	<b>No Limit</b>
<b>DREYFUSS TREASURY CASH MANAGEMENT FUND</b>	<b>No Limit</b>	<b>No Limit</b>
<b>U.S. GOVERNMENT AGENCIES</b>	<b>No Limit</b>	<b>No Limit</b>
<b>LOCAL AGENCY INVESTMENT FUND</b>	<b>No Limit</b>	<b>Max. Set by Gov't Code- currently \$40 m per acct.</b>
<b>TIME DEPOSITS</b>	<b>Max 5% of portfolio (excluding gov't agency and LAIF)</b>	<b>Max \$2 million per institution Collateral = 105% to 150%</b>
<b>REPURCHASE AGREEMENTS</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>MONEY MARKET MUTUAL FUNDS</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>BANKERS' ACCEPTANCES</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>COMMERCIAL PAPER</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>MEDIUM-TERM CORPORATE NOTES</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>NEGOTIABLE CD'S</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>REVERSE REPURCHASE AGREEMENTS</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>ASSET BACKED SECURITIES</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>STATE &amp; LOCAL INDEBTEDNESS</b>	<b>Not Authorized</b>	<b>Not Authorized</b>

## GLOSSARY

**AGENCIES:** Federal agency securities.

**ASKED:** The price at which securities are offered. (The price at which a firm will sell a security to an investor.)

**BANKERS' ACCEPTANCE (BA):** A draft or bill or exchange accepted by a bank or trust company. The accepting institution guarantees payment of the bill, as well as the issuer.

**BASIS POINT:** One one-hundredth of a percent (i.e., 0.01%).

**BID:** The price offered by a buyer of securities. (When you are selling securities, you ask for a bid.)

**BROKER:** A broker brings buyers and sellers together for a commission. He does not take a position.

**CERTIFICATE OF DEPOSIT (CD):** A time deposit with a specific maturity evidenced by a certificate. Large denomination CD's are typically negotiable.

**COLLATERAL:** Securities, evidence of deposit or other property which a borrower pledges to secure repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public monies.

**COUPON:** a) The annual rate of interest that a bond's issuer promises to pay the bondholder on the bond's face value. b) A certificate attached to a bond evidencing interest due on a payment date.

**DEALER:** A dealer, as opposed to a broker, acts as a principal in all transactions, buying and selling for his own account.

**DEBENTURE:** A bond secured only by the general credit of the issuer.

**DELIVERY VERSUS PAYMENT:** There

are two methods of delivery of securities: delivery versus payment and delivery versus receipt. Delivery versus payment is delivery of securities with an exchange of money for the securities. Delivery versus receipt is delivery of securities with an exchange of a signed receipt for the securities.

**DISCOUNT:** The difference between the cost price of a security and its maturity when quoted at lower than face value. A security selling below original offering price shortly after sale also is considered to be at a discount.

**DISCOUNT SECURITIES:** Non-interest bearing money market instruments that are issued at a discount and redeemed at maturity for full face value (e.g., U.S. Treasury Bills).

**DIVERSIFICATION:** Dividing investment funds among a variety of securities offering independent returns.

**FEDERAL CREDIT AGENCIES:** Agencies of the Federal government set up to supply credit to various classes of institutions (e.g. S&L's, Small business firms, students, farmers, farm cooperatives, and exporters).

**FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC):** A Federal agency that insures bank deposits, currently up to \$100,000 per deposit.

**FEDERAL FUNDS RATE:** The rate of interest at which Fed funds are traded. This rate is currently pegged by the Federal Reserve through open-market operations.

**FEDERAL HOME LOAN BANKS (FHLB):** The institutions that regulate and lend to savings and loan associations. The Federal Home Loan Banks play a role analogous to that played by the Federal Reserve Banks vis-a-vis member commercial banks.

**FEDERAL NATIONAL MORTGAGE**

**ASSOCIATION (FNMA):** FNMA, like GNMA was chartered under the Federal National Mortgage Association Act in 1938. FNMA is a Federal corporation working under the auspices of the Department of Housing and Urban Development (HUD). It is the largest single provider of residential mortgage funds in the United States. Fannie Mae, as the corporation is called, is a private stockholder-owned corporation. The corporation's purchases include a variety of adjustable mortgages and second loans, in addition to fixed-rate mortgages. FNMA's securities are also highly liquid and are widely accepted. FNMA assumes and guarantees that all security holders will receive timely payment of principal and interest.

**FEDERAL OPEN MARKET COMMITTEE (FOMC):** Consists of seven members of the Federal Reserve Board and five of the twelve Federal Reserve Bank Presidents. The President of the New York Federal Reserve Bank is a permanent member, while the other presidents serve on a rotating basis. The Committee periodically meets to set Federal Reserve guidelines regarding purchases and sales of Government Securities in the open market as a means of influencing the volume of bank credit and money.

**FEDERAL RESERVE SYSTEM:** The central bank of the United States created by Congress and consisting of a seven-member Board of Governors in Washington, D.C.; 12 regional banks and about 5,700 commercial banks are member of the system.

**GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (GNMA or Ginnie Mae):** Securities influencing the volume of bank credit guaranteed by GNMA and issued by mortgage bankers, commercial banks, savings and loan associations, and other institutions. Security holder is protected by full faith and credit of the U.S. Government. Ginnie Mae securities are backed by the FHA, VA or FMHM mortgages. The term "pass-throughs" is often used to describe Ginnie Maes.

**LIQUIDITY:** A liquid asset is one that can be converted easily and rapidly into cash

without a substantial loss of value. In the money market, a security is said to be liquid if the spread between bid and asked prices is narrow and reasonable size can be done at those quotes.

**LOCAL GOVERNMENT INVESTMENT POOL (LGIP):** The aggregate of all funds from political subdivisions that are placed in the custody of the State Treasurer for investment and reinvestment.

**MARKET VALUE:** The price at which a security is trading and could presumably be purchased or sold.

**MARKET REPURCHASE AGREEMENT:** A written contract covering all future transactions between the parties to repurchase reverse repurchase agreements that establish each party's rights in the transactions. A master agreement will often specify, among other things, the right of the buyer-lender to liquidate the underlying securities in the event of default by the seller-borrower.

**MATURITY:** The date upon which the principal or stated value of an investment becomes due and payable.

**OFFER:** The price asked by a seller of securities. (When you are buying securities, you ask for an offer.) See "Asked" and "Bid".

**OPEN MARKET OPERATIONS:** Purchases and sales of government and certain other securities in the open market by the New York Federal Reserve Bank as directed by the FOMC in order to influence the volume of money and credit in the economy. Purchases inject reserves into the bank system and stimulate growth of money and credit. Sales have the opposite effect. Open market operations are the Federal Reserve's most important and most flexible monetary policy tool.

**PORTFOLIO:** Collection of securities held by an investor.

**PRIMARY DEALER:** A group of

government securities dealers who submit daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and are subject to its informal oversight. Primary dealers include Securities and Exchange Commission (SEC)-registered securities broker/dealers, banks and a few unregulated firms.

**PRUDENT PERSON RULE:** An investment standard. In some states, the law requires that a fiduciary, such as a trustee, may invest money only in a list of securities selected by the custody state--the so-called "legal list". In other states, the trustee may invest in a security if it is one which would be bought by a prudent person of discretion and intelligence who is seeking a reasonable income and preservation of capital.

**RATE OF RETURN:** The yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity; on a bond, the current income return.

**REPURCHASE AGREEMENT (RP or REPO):** a holder of securities sells these securities to an investor with an agreement to purchase them at a fixed date. The security "buyer" in effect lends the "seller" money for the period of the agreement, and the terms of the agreement are structured to compensate him for this. Dealers use RP extensively to finance their positions. Exception: When the Fed is said to be doing RP, it is lending money, that is, increasing bank reserves.

**SAFEKEEPING:** A service to customers rendered by banks for a fee whereby securities and valuables of all types and descriptions are held in the bank's vaults for protection.

**SECONDARY MARKET:** A market made for the purchase and sale of outstanding issues following the initial distribution.

**SECURITIES & EXCHANGE COMMISSION:** Agency created by Congress to protect investors in securities transactions by administering securities legislation.

**SEC RULE 15C3-1:** See "Uniform Net Capital Rule".

**TREASURY BILLS:** A non-interest bearing discount security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three month, six months or one year.

**TREASURY BOND:** Long-term U.S. Treasury securities having initial maturities of more than 10 years.

**TREASURY NOTES:** Intermediate-term coupon bearing U.S. Treasury securities having initial maturities of from one year to ten years.

**UNIFORM NET CAPITAL RULE:** Securities and Exchange Commission requirement that member firms as well as nonmember broker/dealers in securities maintain a maximum ratio of indebtedness to liquid capital of 15 to 1; also called *net capital rule* and *net capital ratio*. Indebtedness covers all money owed to a firm, including margin loans and commitments to purchase securities, on reason new public issues are spread among members of underwriting syndicates. Liquid capital includes cash and assets easily converted into cash.

**YIELD:** The rate of annual income return on an investment, expressed as a percentage. (a) **INCOME YIELD** is obtained by dividing the current dollar income by the current market price for the security. (b) **NET YIELD or YIELD TO MATURITY** is the current income yield minus any premium above par or plus any discount from par in purchase price, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond.



**EXHIBIT B**

MORGAN HILL REDEVELOPMENT AGENCY

STATEMENT OF INVESTMENT POLICY

JUNE 2, 2004

**MORGAN HILL REDEVELOPMENT AGENCY**  
**Statement of Investment Policy**

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## MORGAN HILL REDEVELOPMENT AGENCY

### Statement of Investment Policy

#### INTRODUCTION

*The investment policy and practices of the Morgan Hill Redevelopment Agency are based upon state law, city ordinances, prudent money management and the "prudent person" standards. The primary goals of this policy are to invest public funds to:*

1. *Meet the daily cash flow needs of the Redevelopment Agency.*
2. *Comply with all laws of the State of California regarding the investment of public funds.*
3. *Achieve a reasonable rate of return while minimizing the potential for capital losses arising from market changes or issuer default.*
4. *Encourage local economic benefits to the City of Morgan Hill residents and businesses by investing in local financial institutions, subject to legal control.*

#### SCOPE

The investment policy applies to all funds under the control of the Morgan Hill Redevelopment Agency, including but not limited to the general revenues of the Agency and proceeds of bond sales. These funds are accounted for in the comprehensive annual financial reports of the Morgan Hill Redevelopment Agency.

#### INVESTMENT OBJECTIVES

##### **A. Safety of Principal**

Safety of principal is the Agency's foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure that capital losses resulting from institution default, broker-dealer default, or the erosion of market value are avoided. The Agency shall seek to preserve principal by mitigating the two types of risk: credit risk and market risk.

1. Credit risk, defined as the risk of loss due to failure of the issuer of a security, shall be mitigated by investing in only the highest quality securities (see authorized investments) and by diversifying the investment portfolio so that the failure of any one issuer would not unduly harm the Agency's cash flow.
2. Market risk, defined as the risk of market value fluctuations due to overall changes in the general level of interest rates, shall be mitigated by structuring



the portfolio so that securities mature at the same time that major cash outflows occur, this eliminating the need to sell securities prior to maturity; and by prohibiting the taking of short positions, that is, selling securities that the Agency does not own. It is explicitly recognized, however, that in a diversified portfolio, occasional measured losses may occur, and must be considered within the context of the overall investment return.

**B. Liquidity**

Liquidity is the second most important objective of the investment program. The investment portfolio shall remain sufficiently liquid to enable the Agency to meet all operating requirements. At all times, at least 50% of the total portfolio shall be invested for periods of three years or less; at least 30% of the total portfolio shall be invested for two years or less; at least 20% of the total portfolio shall be invested for one year or less. At no time will a security in the portfolio mature in more than five years except bond reserve funds, bond escrow funds and any funds approved by the Agency Board to be appropriate for a longer period.

**C. Yield**

The Agency portfolio shall be invested to attain a market average rate of return through economic cycles, as long as it does not diminish the objectives of Safety and Liquidity. The market rate of return is defined as the average return on the one-year U.S. Treasury Bill. Whenever possible and in a manner consistent with the objectives of safety of principal and liquidity, a yield higher than the market rate of return shall be sought.

**AUTHORITY TO INVEST FUNDS**

The Redevelopment Agency Board have appointed the Director of Finance responsible for undertaking investment transactions on behalf of the Agency. Unless specifically designated by the Agency Board, the only officials authorized to undertake investment transactions on behalf of the Agency are the Director of Finance, Deputy Treasurer and City Manager. The City Manager shall review all investment purchases before they occur. The Director of Finance and City Manager will observe, review and react to the changing conditions that affect the investment portfolio. They will meet on a regular basis to discuss current market conditions, future trends and how each of these affects the investment portfolio and the Agency. The Director of Finance and City Manager shall establish a system of controls to ensure compliance with the Agency's investment policy.

**INTERNAL CONTROL**

The Director of Finance is responsible for ensuring compliance with the Agency investment policies as well as establishing investment related internal controls designed to prevent losses due to fraud, employee error, misrepresenting by third parties, or unanticipated changes in financial markets.

## **ETHICS AND CONFLICTS OF INTEREST**

Officer and employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Employees and investment officers shall disclose any material financial interests in financial institutions that conduct business within this jurisdiction, and they shall further disclose any larger personal financial/investment positions that could be related to the performance of the Agency's portfolio. Employees and officers shall subordinate their personal investment transactions to those of the Agency, particularly with regard to the timing of purchases and sales, and shall avoid transactions that might impair public confidence in the Agency's ability to govern effectively.

## **EVALUATION OF INVESTMENTS**

The actions of Agency investment officers in the performance of their duties as managers of public funds shall be evaluated using the following "prudent person" standard applied in the context of managing the overall portfolio:

*Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the professional management of their business affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.*

Agency investment officers acting in accordance with written policies and the "prudent person" standard and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided that substantial deviations from expectations are reported by the Director of Finance to the City Manager within three days of discovery. Mutually agreeable remedial action will be taken by the Director of Finance and City Manager and reported to the Agency Board at their next regularly scheduled meeting.

## **AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS**

The Agency shall transact business only with banks and savings and loans, and investment securities dealers which/who comply with Schedule III (Policy Criteria for Selecting Broker/Dealers) attached. The Director of Finance will maintain a list of financial institutions authorized to provide investment services. He will also maintain a list of approved security brokers/dealers selected by credit worthiness who are authorized to provide investment services to the Agency. The dealers must be primary dealers regularly reporting to the Federal Reserve Bank. Exceptions to the primary dealer rule may be made with the approval of the Agency Board, provided they are consistent with California Government Code Section 53601.5.

All primary financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply an audited financial statement, and U4 Form for the broker, completed broker/dealer questionnaire (see Schedule III) and certification of having read the Agency's investment policy. All secondary financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply an audited financial statement,

proof of National Association of Securities Dealers certification, trading resolution, proof of state registration, completed broker/dealer questionnaire (see Schedule 111), U4 Form for the broker and certification of having read the Agency's investment policy. The Director of Finance shall determine if they are adequately capitalized, make markets on securities appropriate to the Agency's needs and are recommended by managers of portfolios similar to the Agency. The Director of Finance shall submit his findings and recommendations to the Agency Board. As part of their annual review of the Investment Policy, the Board will determine which broker/dealers will be authorized to trade with the Agency.

An annual review of the financial condition and registration of qualified bidders will be conducted. A current audited financial statement is required to be on file for each financial institution and broker/dealer in which the Agency invests.

The Agency shall at least annually send a copy of the current investment policy to all financial institutions and broker/dealers approved to do business with the Agency. Confirmation of receipt of this policy shall be considered evidence that the dealer has read and understands the Agency's investment policy and will recommend and execute only transactions suitable for and in compliance with the Agency's investment policy.

### **AUTHORIZED INVESTMENTS**

The Agency is authorized by California Government Code Section 53600, et. seq. to invest in specific types of securities. The Agency has further limited the types of securities in which we may invest. Any security not listed, is not a valid investment for the Agency. The concise list of approved securities is as follows:

- A. United States Treasury Bills, Bonds, and Notes, or those for which the full faith and credit of the United States are pledged for payment of principal and interest. There is no limitation as to the percentage of the portfolio which can be invested in this category.
- B. Obligations issued by United States Government Agencies such as, but not limited to, the Government National Mortgage Association (GNMA), the Federal Farm Credit Bank System (FFCB), the Federal Home Loan Bank (FHLB), the Federal National Mortgage Association (FNMA), the Federal Home Mortgage Corporation (FHLMC), the Student Loan Marketing Association (SLMA), and the Tennessee Valley Authority (TVA). Although there is no percentage limitation of the dollar amount that can be invested in these issuers, the "prudent person" rule shall apply for any single agency name.
- C. The Local Agency Investment Fund (LAIF), established by the State Director of Finance for the benefit of local agencies and identified under Government Code Section 16429.1 is authorized up to the maximum amount permitted by State Law.
- D. The Agency may place funds in inactive deposits with Banks and Savings and Loans

with a branch within California that have a rating of at least "A-1" from the *Financial Directory* or an equivalent rating from another generally recognized authority on ratings, and have an Equity to Total Assets ratio of at least 4%. All deposits shall be secured in accordance with Sections 53651 and 53652 of the California Government Code and comply with Schedule I (Policy Statement of Collateralized Time Deposits) attached. If deposits are not collateralized, the maximum placed at any one institution will be \$100,000. The maximum amount of collateralized inactive deposits placed at any one institution shall not constitute more than 10% of the total assets of the institution or \$2,000,000, whichever is less, and shall not exceed the total shareholders' equity of the issuing institution.

- E. The City may invest in the Dreyfuss Treasury Cash Management Fund as an overnight sweep account in conjunction with contracting with South Valley National Bank for banking services.

### **INVESTMENT POOLS**

The Local Agency Investment Fund (LAIF) is authorized under provisions in Section 16429.1 of the California Government Code. The Agency's participation in the pool was previously approved by the Redevelopment Agency Board. The Agency will investigate all local government investment pools (LGP) prior to investing and periodically thereafter while the Agency is invested in the pool.

### **SAFEKEEPING OF SECURITIES**

To protect against potential losses by the collapse of individual securities dealers, all securities owned by the Agency shall be held in safekeeping by a third party bank trust department acting as agent for the Agency under the terms of a custody agreement executed by the bank and the Agency. All securities will be received and delivered using standard delivery-versus-payment (DVP) procedures. The third party bank trustee agreement must comply with Section 53608 of the California Government Code. No outside broker/dealer or advisor may have access to Agency funds, accounts or investments, and any transfer of funds to or through an outside broker/dealer must be approved by the Director of Finance.

### **DIVERSIFICATION**

The Agency will diversify its investments by security type and investment. With the exception of bond reserve funds, bond escrow funds, and any other funds approved by the Agency Board, at all times at least 50% of the total portfolio shall mature in three years or less; at least 30% of the total portfolio shall mature in two years or less; at least 20% of the portfolio shall mature in one year or less.

### **MAXIMUM MATURITIES**

The Agency will attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, as approved by the Agency Board, the Agency will not directly invest in securities maturing more than five years from the date of purchase. Bond reserve funds,

bond escrow funds, and any other funds approved by the Agency Board may be invested in securities exceeding five years if the maturities of such investments are made to coincide as nearly as possible with the expected use of the funds.

### **BOND PROCEEDS**

The Agency will direct the investment of proceeds on bonds issued as instructed in the bond indenture. Securities authorized by the bond indenture that are not authorized by the Agency's investment policy will only be used if they are specifically approved by the Agency Board. Unless otherwise approved by the Agency Board, all securities will be held in third-party safekeeping with the bond trustee, and all delivery-versus-payment rules will apply. Fees will be collected annually to compensate for administration costs.

### **REPORTING REQUIREMENTS**

The Director of Finance shall render a report of investment activity to the Agency Board within 30 days following the end of the quarter. The report will include the type of investment, issuer, date of maturity, and par and dollar amount invested, on all securities, investments and monies held by the Agency. The report shall state market value and the source of the valuation, and state that the portfolio is in compliance with the policy or the manner in which it is not in compliance. The report will also include a statement denoting the ability to meet the Agency's expected expenditure requirements for the next six months or provide an explanation as to why sufficient money is not available. The report date will be the actual month-end date unless the last day of the month falls on a weekend or legal holiday. If the last day of the month is a weekend or legal holiday, the date of month-end report will be the last business day prior to the end of the month.

### **INVESTMENT POLICY ADOPTION**

The Director of Finance shall submit an annual Statement of Investment Policy to the Redevelopment Agency Board for their approval. This statement shall be presented before June 30 of each year.

### **INVESTMENT POLICY REVIEW**

The Agency's independent Certified Public Accountant shall annually review and make recommendations regarding the Agency investment policies to the extent considered necessary as required by generally accepted auditing standards as they relate to the annual financial audit which includes cash and investments.

## MORGAN HILL REDEVELOPMENT AGENCY

### ***POLICY STATEMENT ON COLLATERALIZED TIME DEPOSITS*** SCHEDULE I

Before the Treasury can place a time deposit with a local bank or savings and loan, the following, criteria must be met:

1. The bank must provide us with an executed copy of the "Contract for Deposit for Moneys" as specified in Section 53649 of the California Government Code.
2. The interest rate on the Time Certificate of Deposit must be competitive with rates offered by other banks and savings and loans residing in Santa Clara County and must exceed the interest rate for treasury bills for a similar maturity period.
3. For investments less than \$ 100,000, FDIC insurance will be sufficient without requiring any collateral to be pledged with the Federal Reserve to secure the public fund deposit.
4. For investments exceeding \$100,000, there may be a waiver of collateral for the first \$100,000 deposited, and all of the funds placed on deposit must be collateralized by 105% of U.S. Treasury or Federal Agency securities, or by 150% of mortgages having maturities less than five years in accordance with Section 53652 of the California Government Code. The Agency must receive confirmation that these securities have been pledged in repayment of the time deposit. The securities pledged must be maintained at a current market value 10% greater than the dollar amount of the deposit.
5. The Agency must be given a current audited financial statement for the financial year just ended as well as the most recent quarterly statement of financial condition. The financial reports must both include a "statement of financial condition" as well as an "income statement" depicting current and prior year operations.
6. The Agency will not place a fund deposit for more than \$2,000,000, or 10% of the assets of the institution, whichever is less.
7. The Agency must receive a certificate of deposit which specifically expresses the terms governing the transaction, (i.e., the period of time, name of depositor, interest rate, etc.).
8. All time certificates must have a maturity period not exceeding two years from the date of deposit with quarterly payments of interest based upon the stated interest rate.
9. The Agency must also receive a letter from the comptroller and/or Director of Finance of the bank at the time the deposit is made, that there is no known pending financial disclosure or public announcement of an adverse financial event involving the bank or savings and loan, nor is there any knowledge that a conflict of interest situation exists with any Agency official, officer or employee at the time the bank is receiving this deposit. The Agency has a fiduciary responsibility to make prudent investment of public funds, and to assure our investment practices are absent of any financial inducement or conflict in interest whatsoever.

10. Time deposits will only be made with qualified banks and savings and loans having branch office locations within Santa Clara County. However, time deposits with a bank or savings and loan must be centralized at one designated office location rather than making separate deposits with each branch office.

## MORGAN HILL REDEVELOPMENT AGENCY

### *POLICY CRITERIA FOR SELECTING BROKER/DEALERS* SCHEDULE II

1. All primary financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply an audited financial statement, and U4 Form for the broker, completed broker/dealer questionnaire (made a part of this Schedule) and certification of having read the Agency 's investment policy. All secondary financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply an audited financial statement, proof of National Association of Securities Dealers certification, trading resolution, proof of state registration, completed broker/dealer questionnaire (made a part of this Schedule), U4 Form for the broker and certification of having read the Agency 's investment policy.
2. The net capital position of the firm shall be in excess of \$ 100 million.
3. The Director of Finance's intent is to enter into a long-term relationship. Therefore, the integrity of the firm and the personnel assigned to our account is of primary importance.
4. The firm must state in writing its willingness to be bound by the Agency 's written Investment Policy Guidelines.
5. The firm must provide an active secondary market for the securities it sells.
6. The firm must specify the types of securities it specializes in and will be made available for our account.
7. It is important that the firm provide related services that will enhance the account relationship which could include:
  - a) An active secondary market for its securities.
  - b) Internal credit research analysis on commercial paper, banker's acceptances and other securities it offers for sale.
  - c) Be willing to trade securities on our portfolio.
  - d) Be capable of providing market analysis, economic projections, newsletters.
  - e) Provide market education on new investment products, security spread relationships, graphs, etc.
8. The firm must be willing to provide us annual financial statements.
9. If requested, the firm must be willing to provide us a list of local government clients or other references, particularly those client relationships established within the State of California.
10. The Agency is prohibited from the establishment of a broker/dealer account for the purpose of holding the Agency 's securities. All securities must be subject to delivery at the Agency's



custodial bank.

11. Without exception, all transactions are to be conducted on a "delivery vs. payment" basis.
12. The broker/dealer shall be headquartered or have a branch office in California- Except for the above, the Agency will not conduct security transactions with any firm located out of state.
13. The broker/dealer must have been in operation for more than 5 years, and must have net capital in excess of \$100 million.
14. No business relationship shall be established with firms engaging in the sale of "exotic" products. Exotic means "unusually high yields," no ready secondary market, "high price volatility" on the security.
15. The firm must be registered with the State of California's regulatory agency.
16. No broker/dealer or security firm shall be selected who has made a political contribution to the local Director of Finance or any member of the Redevelopment Agency governing board or to any candidate for these offices.

## Broker/Dealer Questionnaire

**Name of Firm:**

**Address:**

**Telephone No.:**

**Primary representative**

**Manager**

**Name:**

**Title:**

**Telephone No:**

1. Are you a recognized primary dealer in Government securities?  
☐ Yes ☐ No
2. If so, how long has your firm been a primary dealer?  
\_\_\_\_\_ years.
3. Are you a retail or institutional brokers?
4. What was your firm's total volume in U. S. Government and agency securities trading last year?  
Firm-wide \$ \_\_\_\_\_  
Your office \$ \_\_\_\_\_
5. Which instruments are offered regularly by your trading desk?  

<input type="checkbox"/> T-bills	<input type="checkbox"/> BA's (domestic)
<input type="checkbox"/> T-notes and bonds	<input type="checkbox"/> BA's (foreign)
<input type="checkbox"/> Agencies (specify)	<input type="checkbox"/> Commercial Paper
<u>FFCB, FHLB, FNMA</u>	<input type="checkbox"/> Bank C. D.'s

FHLMC, SLMA, TVA

( ) S & L C. D.'s

WORLD BANK

( ) Repurchase Agreements

( ) Medium Term Corporate Notes

( ) Reverse Repurchase  
Agreements

( ) Mutual Funds (eligible for public investment)

6. Identify all personnel who will be trading with or quoting securities to the City.

Name

Title

Phone

7. Please identify your most directly comparable City/Local Agency clients in our geographical area.

Entity

Contact Person

Phone

Client  
Since

8. Is there anything in your background in the government securities business that makes you stand out above the rest? Why should the City of Morgan Hill deal with you?

9. Have any of your public sector clients ever sustained a loss on a securities transaction arising from a misunderstanding or misrepresentation of the risk characteristics of a particular instrument? If so, please explain.

10. Has any public sector client ever claimed in writing that your firm was responsible for investment losses? Explain.

11. Has your firm consistently complied with the Federal Reserve Bank's capital adequacy guidelines? Include certified documentation of your capital adequacy as measured by Federal Reserve standards.

12. Please provide certified financial statements and other statements regarding your firm's capitalization.

13. Please include samples of research reports that your firm regularly supplies to public sector clients.

14. Are you a Broker instead of a Dealer (i.e. you DO NOT own positions of securities)?
15. What reports, transactions, confirmations and paper trail would the City receive?
16. What training information would you provide to our employees and investment officers?
17. How many and what percentage of your transactions failed last month? Last year?
18. What portfolio information do you require from clients?

**--CERTIFICATION--**

I hereby certify that I have personally read the Morgan Hill Redevelopment Agency's Investment Policy and the California Government Codes pertaining to the investments of the Morgan Hill Redevelopment Agency, and have implemented reasonable procedures and a system of controls designed to preclude imprudent investment activities arising out of transactions conducted by our firm on behalf of the Morgan Hill Redevelopment Agency, considering the Agency's investment objectives, strategies and risk constraints. We pledge to exercise due diligence in informing the Agency Treasury staff of all foreseeable risks associated with financial transactions conducted by our firm. I attest to the accuracy of our responses to the above questionnaire.

NOTE: Completion of this questionnaire is only part of the Morgan Hill Redevelopment Agency's Certification process and DOES NOT guarantee that the applicant will be approved to do business with the Agency.

SIGNED  
(Account Representative)

SIGNED  
(Countersigned by Company President or person in charge of government securities operations.)

DATED

MORGAN HILL REDEVELOPMENT AGENCY

***FIRMS AUTHORIZED TO CONDUCT INVESTMENT TRANSACTIONS***  
SCHEDULE III

The Agency is authorized to conduct investment security transactions with the following investment firms and broker/dealers, many of which are designated by the Federal Reserve Bank as primary government dealers. Security transactions with firms, other than those appearing on this list, are prohibited.

A. Firms designated by the Federal Reserve Bank as Primary Government Dealers:

None

B. Other authorized firms:

Union Bank of California  
Fahnestock & Co., Inc.

**MORGAN HILL REDEVELOPMENT AGENCY**  
**Authorized Investments Ranked by Authority and Degree of Risk**  
**June 2, 2004**

***SCHEDULE IV***

<b>AUTHORIZED INVESTMENTS</b>	<b>DIVERSIFICATION</b>	<b>PURCHASE RESTRICTIONS</b>
<b>U.S. TREASURY BILLS &amp; NOTES</b>	<b>No Limit</b>	<b>No Limit</b>
<b>DREYFUSS TREASURY CASH MANAGEMENT FUND</b>	<b>No Limit</b>	<b>No Limit</b>
<b>U.S. GOVERNMENT AGENCIES</b>	<b>No Limit</b>	<b>No Limit</b>
<b>LOCAL AGENCY INVESTMENT FUND</b>	<b>No Limit</b>	<b>Max. Set by Gov't Code- currently \$40 m per acct.</b>
<b>TIME DEPOSITS</b>	<b>Max 5% of portfolio (excluding gov't agency and LAIF)</b>	<b>Max \$2 million per institution Collateral = 105% to 150%</b>
<b>REPURCHASE AGREEMENTS</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>MONEY MARKET MUTUAL FUNDS</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>BANKERS' ACCEPTANCES</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>COMMERCIAL PAPER</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>MEDIUM-TERM CORPORATE NOTES</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>NEGOTIABLE CD'S</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>REVERSE REPURCHASE AGREEMENTS</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>ASSET BACKED SECURITIES</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>STATE &amp; LOCAL INDEBTEDNESS</b>	<b>Not Authorized</b>	<b>Not Authorized</b>

## GLOSSARY

**AGENCIES:** Federal agency securities.

**ASKED:** The price at which securities are offered. (The price at which a firm will sell a security to an investor.)

**BANKERS' ACCEPTANCE (BA):** A draft or bill or exchange accepted by a bank or trust company. The accepting institution guarantees payment of the bill, as well as the issuer.

**BASIS POINT:** One one-hundredth of a percent (i.e., 0.01%).

**BID:** The price offered by a buyer of securities. (When you are selling securities, you ask for a bid.)

**BROKER:** A broker brings buyers and sellers together for a commission. He does not take a position.

**CERTIFICATE OF DEPOSIT (CD):** A time deposit with a specific maturity evidenced by a certificate. Large denomination CD's are typically negotiable.

**COLLATERAL:** Securities, evidence of deposit or other property which a borrower pledges to secure repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public monies.

**COUPON:** a) The annual rate of interest that a bond's issuer promises to pay the bondholder on the bond's face value. b) A certificate attached to a bond evidencing interest due on a payment date.

**DEALER:** A dealer, as opposed to a broker, acts as a principal in all transactions, buying and selling for his own account.

**DEBENTURE:** A bond secured only by the general credit of the issuer.

**DELIVERY VERSUS PAYMENT:** There are two methods of delivery of securities: delivery versus payment and delivery versus receipt.

Delivery versus payment is delivery of securities with an exchange of money for the securities. Delivery versus receipt is delivery of securities with an exchange of a signed receipt for the securities.

**DISCOUNT:** The difference between the cost price of a security and its maturity when quoted at lower than face value. A security selling below original offering price shortly after sale also is considered to be at a discount.

**DISCOUNT SECURITIES:** Non-interest bearing money market instruments that are issued at a discount and redeemed at maturity for full face value (e.g., U.S. Treasury Bills).

**DIVERSIFICATION:** Dividing investment funds among a variety of securities offering independent returns.

**FEDERAL CREDIT AGENCIES:** Agencies of the Federal government set up to supply credit to various classes of institutions (e.g. S&L's, Small business firms, students, farmers, farm cooperatives, and exporters).

**FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC):** A Federal agency that insures bank deposits, currently up to \$100,000 per deposit.

**FEDERAL FUNDS RATE:** The rate of interest at which Fed funds are traded. This rate is currently pegged by the Federal Reserve through open-market operations.

**FEDERAL HOME LOAN BANKS (FHLB):** The institutions that regulate and lend to savings and loan associations. The Federal Home Loan Banks play a role analogous to that played by the Federal Reserve Banks vis-a-vis member commercial banks.

**FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA):** FNMA, like GNMA was chartered under the Federal National Mortgage Association Act in 1938. FNMA is a Federal corporation working under the auspices of

the Department of Housing and Urban Development (HUD). It is the largest single provider of residential mortgage funds in the United States. Fannie Mae, as the corporation is called, is a private stockholder-owned corporation. The corporation's purchases include a variety of adjustable mortgages and second loans, in addition to fixed-rate mortgages. FNMA's securities are also highly liquid and are widely accepted. FNMA assumes and guarantees that all security holders will receive timely payment of principal and interest.

**FEDERAL OPEN MARKET COMMITTEE (FOMC):** Consists of seven members of the Federal Reserve Board and five of the twelve Federal Reserve Bank Presidents. The President of the New York Federal Reserve Bank is a permanent member, while the other presidents serve on a rotating basis. The Committee periodically meets to set Federal Reserve guidelines regarding purchases and sales of Government Securities in the open market as a means of influencing the volume of bank credit and money.

**FEDERAL RESERVE SYSTEM:** The central bank of the United States created by Congress and consisting of a seven-member Board of Governors in Washington, D.C.; 12 regional banks and about 5,700 commercial banks are member of the system.

**GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (GNMA or Ginnie Mae):** Securities influencing the volume of bank credit guaranteed by GNMA and issued by mortgage bankers, commercial banks, savings and loan associations, and other institutions. Security holder is protected by full faith and credit of the U.S. Government. Ginnie Mae securities are backed by the FHA, VA or FMHM mortgages. The term "pass-throughs" is often used to describe Ginnie Maes.

**LIQUIDITY:** A liquid asset is one that can be converted easily and rapidly into cash without a substantial loss of value. In the money market, a security is said to be liquid if the spread between bid and asked prices is narrow and reasonable size can be done at those quotes.

## **LOCAL GOVERNMENT INVESTMENT**

**POOL (LGIP):** The aggregate of all funds from political subdivisions that are placed in the custody of the State Director of Finance for investment and reinvestment.

**MARKET VALUE:** The price at which a security is trading and could presumably be purchased or sold.

**MARKET REPURCHASE AGREEMENT:** A written contract covering all future transactions between the parties to repurchase reverse repurchase agreements that establish each party's rights in the transactions. A master agreement will often specify, among other things, the right of the buyer-lender to liquidate the underlying securities in the event of default by the seller-borrower.

**MATURITY:** The date upon which the principal or stated value of an investment becomes due and payable.

**OFFER:** The price asked by a seller of securities. (When you are buying securities, you ask for an offer.) See "Asked" and "Bid".

**OPEN MARKET OPERATIONS:** Purchases and sales of government and certain other securities in the open market by the New York Federal Reserve Bank as directed by the FOMC in order to influence the volume of money and credit in the economy. Purchases inject reserves into the bank system and stimulate growth of money and credit. Sales have the opposite effect. Open market operations are the Federal Reserve's most important and most flexible monetary policy tool.

**PORTFOLIO:** Collection of securities held by an investor.

**PRIMARY DEALER:** A group of government securities dealers who submit daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and are subject to its informal oversight. Primary dealers include Securities and Exchange Commission (SEC)-registered securities broker/dealers, banks and a few unregulated firms.

**PRUDENT PERSON RULE:** An investment standard. In some states, the law requires that a fiduciary, such as a trustee, may invest money



only in a list of securities selected by the custody state--the so-called "legal list". In other states, the trustee may invest in a security if it is one which would be bought by a prudent person of discretion and intelligence who is seeking a reasonable income and preservation of capital.

**RATE OF RETURN:** The yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity; on a bond, the current income return.

**REPURCHASE AGREEMENT (RP or REPO):** a holder of securities sells these securities to an investor with an agreement to purchase them at a fixed date. The security "buyer" in effect lends the "seller" money for the period of the agreement, and the terms of the agreement are structured to compensate him for this. Dealers use RP extensively to finance their positions. Exception: When the Fed is said to be doing RP, it is lending money, that is, increasing bank reserves.

**SAFEKEEPING:** A service to customers rendered by banks for a fee whereby securities and valuables of all types and descriptions are held in the bank's vaults for protection.

**SECONDARY MARKET:** A market made for the purchase and sale of outstanding issues following the initial distribution.

**SECURITIES & EXCHANGE COMMISSION:** Agency created by Congress to protect investors in securities transactions by administering securities legislation.

**SEC RULE 15C3-1:** See "Uniform Net Capital Rule".

**TREASURY BILLS:** A non-interest bearing discount security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three month, six months or one year.

**TREASURY BOND:** Long-term U.S. Treasury securities having initial maturities of more than 10 years.

**TREASURY NOTES:** Intermediate-term coupon bearing U.S. Treasury securities having initial

maturities of from one year to ten years.

**UNIFORM NET CAPITAL RULE:** Securities and Exchange Commission requirement that member firms as well as nonmember broker/dealers in securities maintain a maximum ratio of indebtedness to liquid capital of 15 to 1; also called *net capital rule* and *net capital ratio*. Indebtedness covers all money owed to a firm, including margin loans and commitments to purchase securities, on reason new public issues are spread among members of underwriting syndicates. Liquid capital includes cash and assets easily converted into cash.

**YIELD:** The rate of annual income return on an investment, expressed as a percentage. (a) **INCOME YIELD** is obtained by dividing the current dollar income by the current market price for the security. (b) **NET YIELD or YIELD TO MATURITY** is the current income yield minus any premium above par or plus any discount from par in purchase price, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond.

**CITY OF MORGAN HILL  
JOINT SPECIAL AND REGULAR CITY COUNCIL  
AND SPECIAL REDEVELOPMENT AGENCY MEETING  
MINUTES – MAY 19, 2004**

**CALL TO ORDER**

Mayor/Chairman Kennedy called the special meeting to order at 6:10 p.m.

**ROLL CALL ATTENDANCE**

Present: Council/Agency Members Carr, Sellers, Tate and Mayor/Chairman Kennedy  
Late: Chang (arrived at 7:00 p.m.)

**DECLARATION OF POSTING OF AGENDA**

Deputy City Clerk/Agency Secretary Tewes certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

***City Council and Redevelopment Agency Action***

City Attorney Leichter announced the below listed closed session items.

**CLOSED SESSIONS:**

**1.**

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Authority: Government Code Sections 54956.9(b) & (c)  
Number of Potential Cases: 2

**2.**

**CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Authority: Government Code section 54956.9(a)  
Case Name: Hacienda Valley Mobile Estates v. City of Morgan Hill  
Case Numbers: Santa Clara Superior Court, Case No. CV 80-7708;  
Ninth Circuit Court of Appeal, Case No. 02-15986

**3.**

**PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Authority: Government Code 54957  
Public Employee Performance Evaluation: City Attorney  
Attendees: City Council, City Attorney

**4.**

**CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Authority: Government Code section 54956.9(a)  
Case Name: Foye v. City of Morgan Hill Case Number:  
WCAB SJO 204468

### **OPPORTUNITY FOR PUBLIC COMMENT**

Mayor/Chairman Kennedy opened the Closed Session items to public comment. No comments were offered.

### **ADJOURN TO CLOSED SESSION**

Mayor/Chairman Kennedy adjourned the meeting to Closed Session at 6:11 p.m.

### **RECONVENE**

Mayor/Chairman Kennedy reconvened the meeting at 7:10 p.m.

### **CLOSED SESSION ANNOUNCEMENT**

Mayor/Chairman Kennedy announced that no reportable action was taken in closed session.

### **SILENT INVOCATION**

### **PLEDGE OF ALLEGIANCE**

### **CITY COUNCIL REPORT**

Mayor Kennedy reported that he serves on the Santa Clara Valley Transportation Authority (VTA) Policy Advisory Committee as well as an alternate to the Board of Directors of the Santa Clara VTA. He stated that the biggest issue facing the VTA is the Bart extension to San Jose, indicating that there is concern that the bulk of funds approved by the voters may be used for Bart, leaving little funding for Caltrain, light rail extension and other transit systems. He stated that the VTA advisory committee appointed a subcommittee and that he was appointed to this subcommittee. He indicated that the subcommittee will be coming up with recommendations for the policy advisory committee on how to address concerns about insufficient funding being made available for other transit projects. He also reported that last week Council Member Chang, Mayor Pro Tempore Sellers and he were in Sacramento with the organization called LOCAL, a coalition of local governments that includes cities, counties, the League of California Cities, State County Association, special districts and others. He indicated that this organization was successful in placing an initiative on the November ballot to prevent the taking away of property taxes and other revenue sources from cities, counties and special districts. The qualification of the ballot initiative provided the organization some leverage to negotiate an agreement with the Governor for cities, counties and special districts to give up some of the property tax revenues to the State over the next two years. The State would then agree to make some structural changes to protect and preserve local tax revenues for cities, counties and special districts. He indicated that the Governor addressed this body in a meeting held in Sacramento. He felt that this was a successful conclusion to a lot of hard work on the part of all local governments.

Assistant to the City Manager Eulo reported that the Legislative Subcommittee met on May 7, 2004 and that the Subcommittee is recommending that the Council take the following positions: 1) Support AB2741 (expanding the membership for Alameda and South Santa Clara County on the MTC); 2) Support AB2922 (provides for a CEQA exemption for housing near transit center, consistent with the plans Morgan Hill has made for the downtown); 3) Support AB3011 (authorizing VTA to establish a small additional vehicle license fee to help support their traffic congestion management efforts); 4) Support SB1161 (a bill that would place a measure on the ballot for a library bond, similar to the one the City has been participating in); 5) Support having the State High Speed Rail Authority keep the routes going through the south bay with the proviso that none of the routes should go through, over or under Henry Coe Park and potentially working with the High Speed Authority on siting a station in Morgan Hill); 6) Support the League's Wildland Urban Interface Fire Policy (an effort that the League of California Cities along with the California State Association of Counties have undertaken to address wildland urban interface issues); 7) Support the Restoration of Section 108 Loans in the Federal Budget (CDBG dollars); and 8) Not take a position on AB 2032 (allows VTA to establish toll lanes in existing carpool lanes). He indicated that the Subcommittee did not consider this bill to be a matter of direct interest to the City as carpool lanes are not provided on the highways going through Morgan Hill. He indicated that with the Council's approval of these recommendations, staff would send letters to the authors with these positions.

Council Member Tate noted that the High Speed Rail is also listed on the Consent Calendar and that he was going to have this item pulled for further discussion. He deferred discussion on this item until the Consent Calendar is considered.

### **CITY MANAGER REPORT**

City Manager Tewes indicated that he has an agenda revision. He informed the Council and the public that Police Chief Cumming has been in touch with the President of Independence Day Inc. (IDI) who has asked that this matter be rescheduled for a subsequent meeting. Therefore, the presentation of item 30 will be deferred to a future meeting at IDI's request.

### **CITY ATTORNEY REPORT**

City Attorney Leichter stated that she did not have a report to present this evening.

### **OTHER REPORTS**

### **PUBLIC COMMENT**

Mayor/Chairman Kennedy opened the floor to public comments for items not appearing on this evening's agenda.

Jim Arthur requested an update on what has transpired in the last few weeks with regards to the City of San Jose's proposal for the Coyote Valley expansion. It was his recollection that two Council meetings

ago, it was proposed that the Council would be meeting with Supervisor Gage and holding other subsequent meetings.

City Manager Tewes indicated that at 5:00 p.m. this afternoon, the Council met with Supervisor Gage and representatives from the following agencies/organizations: City of Gilroy, Morgan Hill Unified School District, Gavilan College, San Martin Neighborhood Alliance, and the Open Space Authority. These agencies identified a series of issues that should be taken to the City of San Jose. He stated that these issues will be documented and conveyed in a formal way to the City of San Jose. He indicated that Mayor Kennedy announced a willingness from Mayor Gonzales to meet with a group of individuals to talk about this participation. He stated that this meeting will be scheduled in the near future as well as a subsequent meetings of the organizations.

Council Member Tate announced that the annual Relay for Life will take place this weekend at Oakwood School. He stated that all funds collected help fight cancer and that all proceeds will go to the American Cancer Society. He noted that this has been a successful fundraiser in Morgan Hill and that he would be more than happy to take pledges.

No further comments were offered.

## ***City Council Action***

### **CONSENT CALENDAR:**

Mayor Pro Tempore Sellers requested that item 2 and Council Member Tate requested that item 3 be removed from the Consent Calendar.

**Action:**        *On a motion by Council Member Carr and seconded by Council Member Tate, the City Council unanimously (5-0) **Approved** Consent Calendar Items 1, 4-19 as follows:*

1.        **RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) 2004 QUARTERLY REPORT #1**

**Action:** **Accepted** and **Filed** the RDCS First Quarter Report for 2004.

4.        **SUPPORT OF LEAGUE OF CALIFORNIA EFFORTS TO ADDRESS WILDLAND URBAN INTERFACE FIRE ISSUES**

**Action:** **Approved** Resolution No. 9792.

5.        **APRIL 2004 FINANCE & INVESTMENT REPORT**

**Action:** **Accepted** and **Filed** Report.

6.        **SUBDIVISION APPLICATION, SD-03-09: NATIVE DANCER-QUAIL MEADOWS**

**Action:** **Took No Action**, Thereby concurring with the Planning Commission's Decision Regarding Approval of the Subdivision Map.

7. **APPROVAL OF RESOLUTION PROVIDING COMPENSATION FOR CITY OF MORGAN HILL MANAGEMENT AND CONFIDENTIAL EMPLOYEES**  
**Action:** **Adopted** Management Resolution No. 5793.
8. **APPOINTMENTS TO THE ARCHITECTURAL AND SITE REVIEW BOARD (ARB)**  
**Action:** **Approved** the Mayor's Appointment of Incumbent Board Members Lori Cain and Yarmila Kennett to Serve Two-Year Terms Expiring June 1, 2006.
9. **AQUATICS CENTER PROJECT – APRIL CONSTRUCTION PROGRESS REPORT**  
**Action:** **Information** Only.
10. **ACCEPTANCE OF CONSTRUCTION OF MAIN WELL NO. 2 AND SAN PEDRO WELL PROJECT**  
**Action:** 1) **Accepted** as Complete the Construction of Main Well No. 2 and San Pedro Well Project in the Final Amount of \$686,928; and 2) **Directed** the City Clerk to File a Notice of Completion with the County Recorder's Office.
11. **ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR TRACT 9384, MONTE VILLA PHASE I**  
**Action:** 1) **Adopted** Resolution No. 5794, Accepting the Subdivision Improvements Included in Tract 9384, Commonly Known as Monte Villa Phase I; and 2) **Directed** the City Clerk to File a Notice of Completion with the County Recorder's Office.
12. **ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR TRACT 9385, MONTE VILLA PHASE II**  
**Action:** 1) **Adopted** Resolution No. 5795, Accepting the Subdivision Improvements Included in Tract 9385, Commonly Known as Monte Villa Phase II; and 2) **Directed** the City Clerk to File a Notice of Completion with the County Recorder's Office.
13. **ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR TRACT 9400, COYOTE ESTATES PHASE VI**  
**Action:** 1) **Adopted** Resolution No. 5796, Accepting the Subdivision Improvements Included in Tract 9400, Commonly Known as Coyote Estates Phase VI; and 2) **Directed** the City Clerk to File a Notice of Completion with the County Recorder's Office.
14. **ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR TRACT 9461, COYOTE ESTATES PHASE VII**  
**Action:** 1) **Adopted** Resolution No. 5797, Accepting the Subdivision Improvements Included in Tract 9461, Commonly Known as Coyote Estates Phase VII; and 2) **Directed** the City Clerk to File a Notice of Completion with the County Recorder's Office.
15. **FIRST AMENDMENT TO COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE AGREEMENT**  
**Action:** **Directed** Staff to Execute the Agreement with the County.

16. **EXTENSION OF SUBDIVISION IMPROVEMENT AGREEMENT – ALCINI PARTNERSHIP**  
*Action: **Granted** Limited Amendment to Subdivision Improvement Agreement.*
17. **2003 ANNUAL CONSUMER CONFIDENCE REPORT REGARDING WATER QUALITY**  
*Action: For Council **Information** only.*
18. **SPECIAL CITY COUNCIL MINUTES FOR MEETING OF APRIL 28, 2004**  
*Action: **Approved** the Minutes as written.*
19. **SPECIAL CITY COUNCIL MINUTES FOR MEETING OF MAY 5, 2004**  
*Action: **Approved** the Minutes as written.*
2. **RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (MEASURE P) COMPETITION SECOND YEAR PHASING REQUESTS – Resolution No. 5790**

Mayor Pro Tempore Sellers stated that he would be recusing himself from agenda item 2.

**Action:** *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 4-0 vote with Mayor Pro Tempore absent, **Adopted** Resolution No. 5790, Approving Second Year Phasing into Fiscal Year 2006-2007 for Residential Projects in the 2003-2004 Small and Micro Project Competitions.*

3. **SUPPORT OF HIGH SPEED RAIL ROUTE – Resolution No. 5791**

Council Member Tate indicated that he approves the intent of the resolution to favor either the Diablo Range or the Pacheco Range for a high speed rail route. However, the resolution goes on to state that the high speed rail route should not go through Henry Coe Park, and considers a stop in Morgan Hill. He stated that he does not want to consider a stop in Morgan Hill as it is a growth inducing action that would make Morgan Hill a metropolitan center. He indicated that he has reviewed plans for a potential tunnel under Henry Coe Park that may be worth considering. Therefore, he would not rule out having high speed rail out of the area if there is a way to construct a tunnel under Henry Coe Park that will not infringe on the park, a route that can be affective and efficient in terms of how it is constructed. He requested that the two “be it further resolved” statements from the resolution relating to these two items be deleted so that he could support its adoption.

Council Member Chang said that at last week’s Cities Association Board meeting, this item was discussed. She indicated that the Board approved a recommendation that included a southern route, removing Henry Coe Park from the recommendation. She stated that the Board was supportive of Morgan Hill’s position on the Henry Coe Park issue. She indicated that the Board did not discuss a station in Morgan Hill.

Mayor Pro Tempore Sellers said that the Legislative Subcommittee felt that a stop in Morgan Hill would be seen as a potential for economic development benefits. He said that the nature of the train is such that it would not be a commuter line as much as it will be a significant transportation thoroughfare. It was their understanding that the rail would move individuals from northern to southern California. He said that there may be different thoughts on this but that it was his understanding that it would be a goal to add economic development incentives that might create additional opportunities for businesses which could generate income for the community. He indicated that the Legislative Subcommittee did not consider all the major alternatives, thus the basis for the Subcommittee's recommendation.

Council Member Carr indicated that the Legislative Subcommittee discussed briefly the possibility of a tunnel route. He noted that the City has consistently taken a position not to support the rail route going through Henry Coe Park, and that the subcommittee took the same position. He recommended that the City continue to be consistent on this position. He felt that the environmental affects on the Park would be the same regardless of whether it is a tunnel or not. He concurred with Mayor Pro Tempore Sellers that the Subcommittee felt that a stop in Morgan Hill may assist economic development. He said that he had not given thought to a stop in Morgan Hill, and that it may be growth inducing and something that should be considered.

Mayor Kennedy noted that high speed rail would have very few stops and that they would be looking for critical stops like San Jose. He felt that it would be very unlikely that they would have two stops: one in Morgan Hill and one in San Jose. He indicated that thought is being given to having a stop at Diridon Station as being the primary stop in San Jose. He stated that he would also be concerned about trying to push for a high speed rail stop in Morgan Hill as it would cause a tremendous amount of traffic and would impact Morgan Hill. He said that he would support striking this particular resolve from the resolution.

Mayor Pro Tempore Sellers did not believe that taking a positive action would imply that the City is open to this possibility. If the City takes the action this evening, stating that it is not interested in a stop in Morgan Hill, the City has effectively eliminated this possibility for the future.

Council Member Tate felt that the priority of this item being placed on the agenda this evening was to get word to the High Speed Rail Authority that the City would like the route to go through the Diablo Range or Pacheco Pass. He recommended that this recommendation be included in the resolution and nothing beyond this. He stated that he does not have enough information to vote on the two issues. He stated that he could not support the resolution if the two resolves are retained.

Mayor Pro Tempore Sellers stated that he would support the elimination of the two resolve clauses as long as the Council does not make a negative declaration by stating that it is not interested in having a stop in Morgan Hill.

**Action:** *Mayor Pro Tempore Sellers made a motion, seconded by Council Member Tate, to Approve Resolution No. 5791, striking the following two "Be it Further Resolved" clauses: "...that the City of Morgan Hill strongly encourages the High Speed Rail Authority to eliminate any routes going through Henry Coe State Park;" and "...that the*



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~~*City of Morgan Hill is interested in working cooperatively with the High Speed Rail Authority to site a station in Morgan Hill."*~~

Council Member Carr noted that the Council took an official position several months back regarding the high speed rail not being constructed over, under, or through Henry Coe Park. Therefore, he felt that it made sense to retain this position in the resolution.

Council Member Tate stated that he always supported the City's position that the route not go through Henry Coe Park. However, he recently learned about the tunnel option and felt that he needs to learn more to understand why this would not be a good option.

Assistant to the City Manager Eulo indicated that it was his belief that it was last fall that the Council took an official position about not constructing a rail through Henry Coe Park. He did not recall the discussion of a tunnel option at that time. He agreed that the environmental affects of a tunnel under a state park are not known at this time.

Council Member Sellers stated that elimination of the clause would not change the City's official position about the rail route.

Mayor Kennedy said that if the Council were to retain the statement, it does not mean that they cannot come back and negotiate this point. If it is found that a tunnel is a good way to route high speed rail and is cost effective with minimal environmental impacts, Council can always come back and make the request.

Council Member Tate felt that the same argument could be made if the statement is left out of the resolution.

Mayor Kennedy recommended that a statement be made that the Council does not want high speed rail through Henry Coe Park. He stated that he would support retaining the statement in the resolution.

Council Member Carr said that the statement contained in the resolution is consistent with the Council's position.

Mayor Pro Tempore Sellers stated that should the Council vote with the motion, it would result in a 5-0 vote. If amended, the Council would not have a unified statement. He urged the Council to vote affirmatively on the motion on the floor.

Council Member Carr stated that should the Council approve the motion as stated, that the City sends the Council's previous statement on Henry Coe Park along with the resolution. The statement would not be a part of the resolution but that staff sends the Council's previous position on Henry Coe Park with the resolution.

Council Member Chang supported Council Member Carr's suggestion, as she used this statement as an argument with the Cities Association Board.

**Vote:** *The motion carried 5-0.*

## ***City Council Action***

### **CONSENT CALENDAR: (Continued)**

Council Member Chang indicated that she would recuse herself from items 20 and 21 as item 20 is near her residence and item 21 is located within 500 feet of her office.

**Action:** *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council, on a 4-0 vote, with Council Member Chang absent, **Approved** Consent Calendar Items 20 & 21, as follows:*

**20. ACCEPTANCE OF SIDEWALK, CURB & GUTTER REMOVAL AND REPLACEMENT, PHASE III 2003-2004 PROJECT**

**Action:** *1) **Accepted** as Complete the Sidewalk, Curb & Gutter Removal and Replacement, Phase III 2003-2004 Project in the Final Amount of \$95,874; and 2) **Directed** the City Clerk to file the Notice of Completion with the County Recorder's Office.*

**21. SUBDIVISION, SD-04-07: CENTRAL-SOUTH COUNTY HOUSING**

**Action:** ***Took No Action**, Thereby concurring with the Planning Commission's Decision Regarding Approval of the Subdivision Map.*

Mayor Kennedy requested that staff agendize "taking no action" on Planning Commission's decision regarding subdivision maps.

City Manager Tewes clarified that a subdivision is approved by the Planning Commission on a tentative basis. A tentative subdivision contains a set of conditions which later are approved by the City Council as a final map. He indicated that the City Council has asked staff to place these tentative subdivisions before it on the agenda so that even in the absence of an appeal by the public, the Council could still take up the conditions of approval. The recommendation on the consent calendar is that the Council "not take up" the Subdivision Map. However, the Council has the opportunity to do so if it so wishes. Should the Council not wish to have these subdivision maps placed before it, staff could streamline the agenda.

## ***Redevelopment Agency Action***

### **CONSENT CALENDAR:**

**Action:** *On a motion by Agency Member Carr and seconded by Agency Member Tate, the Agency Board unanimously (5-0) **Approved** Consent Calendar Item 22, as follows:*

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**22. MORGAN HILL UNITED METHODIST CHURCH LOAN MODIFICATION**

**Action:** 1) **Amended** the Existing Loan Agreement with the United Methodist Church to Allow for the 6-1/2 Year Extension of Repayment Period and the Temporary Suspension of Principal Payments as Requested; and 2) **Authorized** the Executive Director to do Everything Necessary and Appropriate to Amend and Execute the Loan as Approved, Subject to City Attorney Review.

## ***City Council and Redevelopment Agency Action***

### **CONSENT CALENDAR:**

**Action:** On a motion by Council/Agency Member Carr and seconded by Council/Agency Member Tate, the City Council/Agency Board unanimously (5-0) **Approved** Consent Calendar Items 23-24, as follows:

**23. CITY MANAGER'S PROPOSED 2004-2005 BUDGET AND CAPITAL IMPROVEMENT PROGRAM**

**Action:** 1) **Received** the City Manager's Proposed 2004-2005 Budget & Capital Improvement Program (CIP); 2) **Set May 21, 2004** as a Budget Workshop and CIP Workshop; 3) **Set June 2, 2004** as a Public Hearing on the Budget; and 4) **Set June 16, 2004** for Adoption of the 2004-2005 Budget.

**25. JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MINUTES FOR MEETING OF MAY 5, 2004.**

**Action:** **Approved** the Minutes as written.

**24. JOINT REGULAR REDEVELOPMENT AGENCY AND SPECIAL CITY COUNCIL MINUTES FOR MEETING OF APRIL 28, 2004.**

**Action:** **Approved** the Minutes as written.

## ***City Council Action***

### **PUBLIC HEARINGS:**

**26. SOLID WASTE MANAGEMENT RATE ADJUSTMENT – Resolution No. 5798**

Assistant to the City Manager Eulo presented the staff report, indicating that once a year, the City adjusts its solid waste management rate. Pursuant to the franchise agreement, South Valley Disposal and Recycling has submitted a rate application based on the change on the Consumer Price Index (CPI). He noted that the CPI has not changed significantly in the last year and therefore, the maximum rate adjustment allowed would be .82%, equating to approximately 17 cents per month for those living on the valley floor. The hillside customers would also go up a similar percentage amount. He informed the Council that South Valley Disposal and Recycling's new General Manager, Phil Couchee, is in attendance for formal introduction.

Mr. Couchee stated that he is looking forward in working for South County residents and the City.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

**Action:**        *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Adopted** Resolution No. 5798, Refuse Rate Resolution.*

**27.    DEVELOPMENT AGREEMENT APPLICATION, DA-03-09: NATIVE DANCER-QUAIL MEADOWS – Ordinance 1674, New Series**

Planning Manager Rowe presented the staff report. He indicated that a supplemental correspondence dated May 17, 2004 has been forwarded to the Council from an area resident expressing concern for the safety of the great blue herrings that use the existing eucalyptus trees as a nesting site. He indicated that mitigations have been incorporated into the conditions of the subdivision approval that require a 100-foot setback be maintained during the nesting season when there is any construction activity. There is also to be a permanently recorded open space easement around the tree with landscaping that would provide a separation. He said that an existing overhead power line easement would restrict any building beyond the identified line.

Council Member Carr noted that the letter also referred to wells on site.

Planning Manager Rowe identified the location of an existing well, and that another well may exist closer to the original residence. He stated that the well used for domestic purposes has been capped and that the other well would either be properly sealed or will be brought back into production and used to irrigate the landscaping within the subdivision. He indicated that staff is aware of the fact that this is a nesting/sensitive site and that the biologist has recommended mitigations that have been incorporated as conditions of subdivision approval.

Mayor Kennedy opened the public hearing.

Rusty Lutz, author of the letter submitted to the Council, stated that it would be important to include restricting building of the home closest to the eucalyptus tree during the nesting season so that the herrings are not disturbed. He noted that grading is taking place and expressed concern about the wells and the birds.

Council Member Carr noted that the Planning Commission minutes contain a discussion regarding the concern of disturbance during the nesting season as well. He said that it was his understanding that the Planning Commission broadened the definition of the nesting season and has included a restriction on the constructing of the building nearest the nesting site.

Planning Manager Rowe informed the Council that one of the mitigation measures adopted requires that a 100-foot setback be maintained during the nesting period. He said that there is a 100-foot building activity setback required during the nesting period. There will also be a 20-foot recorded easement

placed around the base of the nesting tree. He clarified that construction improvements cannot be any closer than the power lines would allow. The easement does not allow any construction underneath these lines. This pushes the building envelope more than 100 feet away from the tree. He stated that all improvements would be at least 100-feet removed from the nesting tree. It is also stipulated that any construction activity has to maintain a 100-foot setback during the nesting period which begins mid January and ends mid June.

Mayor Kennedy requested that staff investigate the complaint that there has been activity during the nesting season and have the situation corrected.

Planning Manager Rowe said that staff has made the property owner aware of the concerns and that construction activity, including grading, cannot occur during the nesting period.

No further comments being offered, the public hearing was closed.

Mayor Pro Tempore Sellers stated that he appreciated that the Lutz family brought these issues to the Council's attention. He was pleased that mitigation measures were incorporated in the project's approval.

**Action:** *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1674, New Series, the Development Agreement Ordinance.*

**Action:** *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council **Introduced** Ordinance No. 1674, New Series, by Title Only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT FOR APPLICATION MMP-03-01: NATIVE DANCER – QUAIL MEADOWS (APN 779-02-014) (DA-03-09: NATIVE DANCER – QUAIL MEADOWS)** by the following roll call vote: **AYES:** Carr, Chang, Kennedy, Sellers, Tate; **NOES:** None; **ABSTAIN:** None; **ABSENT:** None.*

**28. DEVELOPMENT AGREEMENT APPLICATION, DA-04-02: CENTRAL-SOUTH COUNTY HOUSING – Ordinance No. 1675, New Series**

Council Member Chang indicated that this project is located across the street from her business office. Therefore she would be recusing herself from this item. She excused herself from the Council Chambers.

Planning Manager Rowe presented the staff report.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

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**Action:**      *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council, on a 4-0 vote with Council Member Chang absent, **Waived** the Reading in Full of Ordinance No. 1675, New Series, the Development Agreement Ordinance.*

**Action:**      *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council **Introduced** Ordinance No. 1675, New Series, by Title Only, as follows **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT, DA 04-02 FOR APPLICATION MP 04-01: CENTRAL-SOUTH COUNTY HOUSING. (APNS 726-24-07, 022, 023 & 024)** by the following roll call vote: AYES: Carr, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Chang.*

Council Member Chang resumed her seat on the dais.

## ***Redevelopment Agency Action***

### **OTHER BUSINESS:**

#### **29. REPORT FROM THE MORGAN HILL DOWNTOWN ASSOCIATION**

Director of Business Assistance and Housing Services Toy presented the staff report, indicating that the Downtown Association would like to report on their past accomplishment and to request additional funding over the next four years. He indicated that approximately three years ago, the Council made a commitment to reserve \$250,000 to fund the first three years of operations for the Morgan Hill Downtown Association. He said that the Downtown Association is currently in year two of this funding, and has one year remaining. At the time, it was the Agency's hope that in year four the Downtown Association would identify an alternate funding source besides the Agency. He indicated staff would incorporate the Agency's direction within the budget approval process.

Chairman Kennedy opened the public comment.

Leslie Miles, President of the Downtown Association, shared some of the activities that have taken place in the downtown and what the Association has been doing. She indicated that the Downtown Association considers the downtown area of Morgan Hill to be the heart of the City and believe that it is their responsibility to keep the community's heart thriving. She presented a power point presentation that identified the following activities that have taken place: 1) Advocacy - worked toward attracting new businesses and helping businesses to establish themselves in the downtown; 2) conducted quarterly meetings that include networking; 3) coordinated property owners and attracting new tenants; 4) have on-going committees that cover design, events, economic development and memberships; 5) the development of new and revised ordinances to enhance the downtown (A-Frame ordinance); 6) provide non-governmental assistance to work out ideas, concerns and provide valuable informational feedback to the city; 7) implemented city sponsored programs, assisting with the implementation of the RFP process; 8) publicity – there were over 64 articles about the downtown in newspapers throughout the area and bay area; 9) published the Main Street Beat quarterly newsletter, distributing over 1600 copies;

and 10) established a website. She indicated that she would provide Agency members a copy of her power point presentation which demonstrates what has taken place in the downtown in the past 1.5 years. She indicated that the Downtown Association is working with Parking Management and trying to develop more/appropriate parking for the downtown.

Ms. Miles informed the Agency Board that the Downtown Association released an RFP requesting assistance with the PBID process. She indicated that the responses received have been included as attachments to the staff report. The one consultant who responded to the RFP indicated that it would cost approximately \$30,000 to receive consultation and provide the Association with the information being sought. As the Association reviewed the information, it was realized that based on a ratio of Palo Alto's PBID versus the number of businesses in Morgan Hill, the potential for collecting money would be approximately \$20,000 per year. The Downtown Association has decided not to proceed with this consultant because it is felt that it may not make economical sense to do so.

Ms. Miles stated that the Downtown Association is here requesting Redevelopment Agency funding because it was found that having an executive director is key to the downtown organization. She said that an executive director can establish a vision and move the vision forward for the downtown. She said that for the coming year, the Downtown Association is requesting \$27,500 which allows it to maintain the current executive director. She said that the Downtown Association has \$2,500 in membership and is looking at expanding the membership fees to \$10,000. She indicated that the Downtown Association wants to make sure that its program is not focused on events but focuses on business assistance and developing the downtown as a great place to do business, walk and live. She stated that the Downtown Association views themselves as maintaining the City's front porch and hoped that the Council would allow them to continue to do so.

Stacy Marsh, owner of Art Scene, indicated that she purchased the Goose Pond Gallery approximately 1½ years ago. She stated her support of the Agency's funding of the Downtown Association as it is paramount to do so. She felt that this group gives downtown businesses a voice, adds cohesion and focuses on the downtown. She stated that the Downtown Association would continue to help businesses do well. She could not imagine what would happen to the downtown if the Downtown Association were to be disbanded. She said that the success of the downtown would add to property values and citizens' quality of life.

Julie Goodpasture, student, stated that it would be great if the Agency Board would assist and provide funding for the downtown. She felt that people tend to forget about the heart of Morgan Hill when expansion of businesses occurs at the outskirts of Morgan Hill. She said that she is proud of the downtown, and felt that it would be great if the City could implement programs for youth so that they can get more involved with the community and be proud of it.

No further comments were offered.

Agency Member Tate complimented the Downtown Association as they have done a great job, have done great things and that he would like this to continue. He thought that what the City was getting from the \$250,000 funding was not necessarily that the Downtown Association would become self-

sufficient but that it would provide the City with a plan on how it would become self-sufficient. He noted that the Downtown Association addressed the great things that it is doing but that it has not advised the City how it would become self-sufficient. He noted that the City does not have a lot of money. He indicated that he has been looking for money to complete the library. He said that Redevelopment money is where this money has to come from. He stated that he cannot approve the funding request at this time as it does not contain what was committed to by the Downtown Association; a plan to become self-sufficient. He stated that he could support the additional \$27,000 for next year but could not approve funding beyond that year as he does not know if funds would be needed for the library. Also, he did not know how the expenditure of these funds will help the Downtown Association become self-sufficient.

Vice-chair Sellers said that two or three significant things have taken place: 1) Self-sufficiency from the beginning depended on the development of a business improvement district. He noted that this was not going to be as viable as originally considered short term. 2) It became apparent that none of these projects could come close to matching the return that was being seen from the establishment of the Downtown Association, even at a 40% return. He said that there were two simultaneous thoughts: 1) to go back and review the Downtown Association in terms of where it should be and what the premier assets of the organization are; and 2) figure out what alternatives there are for funding. He said that there has been recognition from the beginning that there are limited funds provided for the downtown. More importantly, he felt that there is competition for the funds that are remaining. He stated that he would be supportive of a four-year approach and committing the funds for the long term. He felt that the City is in a position to provide additional allocations for the library project, particularly if you look at a library in the downtown area, and still provide funding for this program. He said that businesses and property owners who will benefit from having a direct contribution from the City looked at it and felt that there would be a greater residual benefit from having these funds going to the Downtown Association, leveraging these funds. He has no doubt that the Downtown Association is first and foremost an economic development organization that has proven itself. He felt that the City would see similar results, if not more, in the future. In looking at the City's budget on Friday, he felt that the Council/Agency needs to see how it balances out. He felt that \$250,000+ over the next four years would provide the community a significant benefit.

Chairman Kennedy inquired as to the source of funding the request would come from. Has it been included in the budget? What are the impacts to the remaining funds?

Mr. Toy indicated that funding comes from the funds reserved for economic development. He stated that prior to this presentation, staff budgeted \$70,000 for this activity. For future years out, no funding has been earmarked because staff did not have direction from the Council/Agency Board. He said that should the Agency Board decide to fund the Downtown Association over a four year period, it would result in \$280,000 out of the funds remaining for economic development. He informed the Council that as of June 2004 staff estimates that there would be approximately \$4 million of unallocated funding remaining. However, this does not include next year's fiscal allocation. He said that the \$3 million earmarked for the downtown RFC is a separate category, taking \$1 million from economic development, \$1 million from streets, and \$1 million from low-moderate housing in order to create the \$3 million. He



indicated that the \$4 million in economic development funding does not include programs proposed for next fiscal year. If you take this out, \$2.5 million would remain for the life of the plan.

Agency Counsel Leichter stated that she did not believe that staff was asking the Redevelopment Agency to make a funding allocation of a specific amount this evening, noting that this recommendation was not agendaized for Agency Board discussion. She recommended that the Agency Board not make a recommendation for funding. She noted that staff is requesting that the Agency Board provide an indication of its preference on what it would like to see in the budget when it comes back to the Agency Board for adoption.

Agency Member Carr thanked the Downtown Association for its presentation. He stated that he would like to see the Downtown Association continue to thrive and grow and felt that the City should be a partner in this. However, he feels a sense of conflict. He noted that he has been consistent that the City should not be spending additional Redevelopment Agency dollars until it figures out the funding source for the library. He stated that he would be comfortable in giving direction for the budget to include additional dollars for the Downtown Association as long as it is made clear that the Agency Board has no intention of allocating these dollars until the City figures out the funding source for the library. He indicated that it is possible that this pot of money could be a funding source for the library. He would support including a place holder in the budget today. He said that the Agency Board has heard a consistent message from Vice-chair Sellers that these are “either, or” projects (e.g., library, indoor recreation center, support of the Downtown Association). He felt that the City should be finding ways to make all these projects take place. However, he did not believe that the City should be allocating dollars until it figures out the funding source. He said that he was comfortable with a place holder for these dollars. He requested that staff continue to look at this budget to see if there are ways other than cash allocations that the City can support the Downtown Association that would lessen the dollar amount from the Redevelopment Agency. Two weeks after approval of the budget, when the Council/Agency has the major discussion about the funding for the library, this may be one of the possible pots of money that may be considered.

Agency Member Tate said that he heard Vice-chair Sellers state that the Agency should give the Downtown Association a long term commitment for funding. Yet, he thought that the Downtown Association had given the Agency a commitment to return with a plan on how they would make themselves self-sufficient. He did not see the Agency holding them to this commitment. He felt that this would become an ongoing subsidy, one that he disagreed with. He does not know what the members are doing to sustain themselves. He stated that he would be willing to commit funding for next year but nothing beyond next year until the Agency sees a plan for self-sufficiency.

Vice-chair Sellers did not believe that the Agency was far apart on the issue. He noted that the Agency is willing to fund \$27,500 in Fiscal Year 2004-05. He felt that the problem the organization is grappling with is that the premise under which they were going to present a self-sufficiency plan got pulled out from under them as it was thought that they would achieve a much higher return on the bid. Also, the emphasis and strengths of the Downtown Association went in a different direction. He felt that the prudent thing to do would be to look at next year’s funding, giving thought to where this money comes

from in developing the self-sufficiency plan. He also felt that in the budget review, the Agency would be able to allocate sufficient funds, identify funding sources for the library, and give consideration to a long term commitment and what this would mean to the downtown. He felt that all three can be accomplished. He felt that the Downtown Association has put forth good reasons why the Agency should continue funding in future years.

Agency Member Tate said that if it is the case that it would take a permanent subsidy to assist the Downtown Association, he wanted to know this in order to consider this fact.

Chairman Kennedy said that the presentation from the Downtown Association was compelling and felt that more should be done for the downtown, as it is the heart of the community. He felt that the downtown deserves a special effort and that more should be done for the downtown than what the City would do for a big box retailer, despite the fact that sales tax revenues may not be as great. He stated that he would support the concept of keeping this funding request as a place holder and requested that the Downtown Association return with a schedule/date when it would have a plan in place on how it will become self-sufficient.

Agency Member Chang inquired whether the Agency would fund the Downtown Association for four years if they return to the Agency with a plan for self-sufficiency.

Vice-chair Sellers said that the City Council/Redevelopment Agency in fact approves place holders in the adoption of the budget and that projects proceed based on funding becoming available. He said that it was important to note that the Downtown Association has an incentive to come up with a long term funding plan. From sitting in on Board meetings, he knows that the Board is aware and anxious to move forward and come up with a funding plan. Therefore, he has no doubt that they would complete a funding plan. As the City Council's representative to the Downtown Association, he would continue to urge that they move toward this end.

**Action:**        *The Agency Board provided the above comments.*

## ***City Council Action***

### **OTHER BUSINESS:**

#### **30.    AGREEMENT BETWEEN THE CITY AND INDEPENDENCE DAY INCORPORATED (IDI) TO CO-SPONSOR THE FOURTH OF JULY ACTIVITIES**

City Manager Tewes noted that this item has been removed from the agenda and that staff would re-agendize this item when IDI is ready to proceed.

**Action:**        *This item removed from the agenda.*

### **FUTURE COUNCIL-INITIATED AGENDA ITEMS**

Mayor Pro Tempore Sellers said that based on the Council's workshop earlier this evening, he requested that staff agendize the discussion of litigation options for Coyote Valley. He noted that Supervisor Gage made a comment that the City needs to make a strong statement about how far the City is prepared to take this issue. He felt that it would be appropriate to agendize the discussion about the need to retain counsel, or whether the Council needs to make its intentions known about Coyote Valley.

City Attorney Leichter inquired whether the discussion should be scheduled for closed session.

Mayor Pro Tempore Sellers stated that this would be more of a statement of how strong the City feels about the actions being taken and what the City is prepared to engage in. He suggested that this portion of the discussion be made public. He felt that it may be premature to undertake litigation at this point. Therefore, he felt that this would be a more generalized discussion to make clear the strength of Morgan Hill's feelings on the issues surrounding Coyote Valley and that the City would move forcefully on them.

#### **RECONVENE TO CLOSED SESSION**

City Attorney/Agency Counsel Leichter announced the listed closed session items.

Mayor/Chairman Kennedy opened the closed session items to public comment. No comments were offered.

Mayor/Chairman Kennedy adjourned the meeting to Closed Session at 8:43 p.m.

#### **RECONVENE**

Mayor/Chairman Kennedy reconvened the meeting at 9:24 p.m.

#### **CLOSED SESSION ANNOUNCEMENT**

City Attorney/Agency Counsel Leichter announced that no reportable action was taken in closed session.

#### **ADJOURNMENT**

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 9:25 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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**IRMA TORREZ, CITY CLERK/AGENCY SECRETARY**

**CITY OF MORGAN HILL  
JOINT REGULAR REDEVELOPMENT  
AND SPECIAL CITY COUNCIL MEETING  
MINUTES – MAY 26, 2004**

**CALL TO ORDER**

Chairman/Mayor Kennedy called the meeting to order at 7:02 p.m.

**ROLL CALL ATTENDANCE**

Present: Agency/Council Members Carr, Chang, Sellers, Tate and Chairperson/Mayor Kennedy  
Absent: Agency/Council Member Chang excused herself from the meeting at 7:06 p.m.

**DECLARATION OF POSTING OF AGENDA**

Deputy Agency Secretary/Deputy City Clerk Malone certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

**SILENT INVOCATION**

**PLEDGE OF ALLEGIANCE**

Chairman/Mayor Kennedy led the Pledge of Allegiance.

Agency/Council Member Chang excused herself from the remainder of the meeting to attend a graduation ceremony for her daughter.

**PROCLAMATIONS**

Mayor Kennedy read the proclamation for Veterans Appreciation Week for May 30 – June 5, 2004. He also announced the special ceremony to be held honoring veterans at 7:30 in the evening on May 31, 2004 at Community and Cultural Center.

**INTRODUCTIONS**

Recreation and Community Services Division Manager Spier introduced the newly hired Aquatics Center Supervisor, Aaron Himelson. Aaron then introduced his staff: Theresa Magno, Recreation Coordinator; Shelley Yowell, OA II; and Sergio Jauaregui, Building Maintenance Specialist.

Aaron noted that it is only a couple of weeks until the grand opening of the aquatics center, and presented the Council with the shirts that will be worn by the Center's staff, and a sample of the type of water toy that will be on sale at the Center. He thanked the community and the council for the construction of this facility.

Ms. Spier reminded the Council Members and the public that the grand opening will be on Saturday, June 12. She also noted that the phone number of the Center is 782-2143, and stated that it is active now and provides information on the Center and how to contact Center staff. She also reported that the Center staff will be at the Mushroom Mardi Gras this weekend and will have water toys for sale.

Mayor Kennedy thanked them and welcomed the new staff. He extended his congratulations to the Recreation staff, the Aquatics staff, and the project manager Glenn Ritter on the outstanding job they have done in bringing this project to fruition.

### **RECOGNITIONS**

Mayor Kennedy presented a Certificate of Recognition to sisters Mary Cate Roth & Emily Roth for their heroic efforts in saving the life of their mother when she had a seizure while driving on the freeway. These two children showed maturity in a very frightening situation and he commended them for their actions in bringing the vehicle to a stop, walking to a call box and phoning for help, and remaining calm and clear in the presentation of the information needed to assist the responding agencies. Mayor Kennedy commended them for their brave actions and complimented them on being good examples for their peers and the community at large.

### **CITY COUNCIL SUB-COMMITTEE REPORT**

Council Member Sellers reported on the Legislative Subcommittee. He stated that it is their intent to present a formal report at the June 2 meeting. There are three items that they will be recommending for support or opposition. 1) They will recommend opposing AB 2406, which requires the State Fire Marshall to create a fire reporting system that duplicates current reporting; 2) Recommend opposing SD 744 which affects the State's ability to overturn land use decisions; and 3) Recommending support of SB 1097, a bill sponsored by Senator Feinstein which provides additional funding for the California water system.

### **CITY MANAGER REPORT**

City Manager Tewes reported on the recent testing of water wells for perchlorate. Results of the last report show that all wells showed "Not Detectible" levels of perchlorate, based on the state detection levels of 4 ppb.

### **CITY ATTORNEY REPORT**

City Attorney Leichter stated that there is no City Attorney's Report this evening.

### **OTHER REPORTS**

City Treasurer Roorda was not present for the Finance & Audit Committee Report. City Manager Tewes reported that at the Finance and Audit Committee meeting earlier this evening, the Committee had made some major progress on developing a recommendation that will come back to the City

Council on the issue of considering revenue options and obtaining community input on these options. Their intention is to bring this information to the Council on June 16.

### **PUBLIC COMMENT**

Chairman/Mayor Kennedy opened the floor to public comments for items not appearing on this evening's agenda.

Chris Houle spoke regarding the need for a bike park in Morgan Hill similar to the existing skate park. He asked that this item be included in future planning of recreational areas in Morgan Hill.

Mayor Kennedy stated that he will provide direction to staff to take a look at this issue and thanked him for his excellent presentation.

City Manager Tewes stated that he will bring this to the attention of the Parks and Recreation Commission for their evaluation.

There being no further comment, the public comment was closed.

## ***Redevelopment Agency Action***

### **CONSENT CALENDAR:**

**Action:**        *On a motion by Agency Member Tate and seconded by Agency Member Sellers, the Agency Board unanimously (4-0, with Chang absent) **Approved** Consent Calendar Items 1-2, as follows:*

1.        **APRIL 2004 FINANCE & INVESTMENT REPORT**  
          **Action:** **Accepted** and **Filed** Report.
2.        **STATUS OF EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT (ERN) WITH EL TORO BREWING**  
          **Action:** **Accepted** Status Update Report.

## ***City Council Action***

### **CONSENT CALENDAR:**

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (4-0, with Chang absent) **Approved** Consent Calendar Items 3-7, as follows:*

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3. **AQUATICS CENTER OPERATIONS MANUAL**

**Action:** *Approved the Aquatics Center Operations Manual for Staff Implementation.*

Mayor Kennedy asked to comment on this item before the vote was taken. He expressed his commendation to the Recreation staff for their excellent work on the Operation Manual, and stated that he felt it was extremely well done.

4. **CONSULTANT AGREEMENT WITH NAFFA INTERNATIONAL, INC. FOR OUTSIDE PLAN REVIEW SERVICES**

**Recommended Action(s):** *1) Approved Contract with NAFFA International, Inc. for the Amount of \$45,000; and 2) Authorized the City Manager to Execute the Contract, Subject to Review and Approval by the City Attorney.*

5. **ACCEPT AS COMPLETE THE PARADISE PARK IMPROVEMENT PROJECT**

**Action:** *1) Accepted as Complete the Construction of the Paradise Park Improvement Project in the Final Amount of \$122,481.11; and 2) Directed the City Clerk to File the Notice of Completion with the County Recorder's Office.*

6. **APPROVED MINUTES FOR SPECIAL CITY COUNCIL MEETING OF MAY 18, 2004.**

***Redevelopment Agency and City Council Action***

**CONSENT CALENDAR:**

**Action:** *On a motion by Agency/Council Member Tate and seconded by Agency/Council Member Sellers, the Agency Board/City Council unanimously (4-0, with Chang absent) Approved Consent Calendar Item 7, as follows:*

7. **PERFORMANCE MEASURE UPDATE – THIRD QUARTER FISCAL YEAR 2003-2004**

**Action:** *Received and Filed.*

***City Council Action***

**OTHER BUSINESS:**

8. **MEDICAL SERVICES POLICY AND OBJECTIVES**

Mayor Kennedy passed out a draft of the Medical Services Policy and Objectives to Council Members. He reported that there had been a meeting of himself, Council Member Sellers, and City Manager Tewes to discuss this draft, and they had come to a general agreement, but that Council Member Sellers had some comments he wished to make.

Council Member Sellers stated that he wanted to clarify that the Short Term Objective #2 regarding urgent care facilities is intended to expand hours of operation above and beyond the current regular

business hours to include nights and week-ends. He also wanted Council to consider the difficult issue of whether they wanted to add a statement regarding competitive facilities that might hinder the accomplishment of the established goals. He asked the City Manager if there was to be any consideration of zoning changes for medical facilities.

City Manager Tewes responded that there has been an application for a change in the PUD for the Morgan Hill Business Park to allow for medical office buildings and clinics which will be coming before the Council sometime in September. In addition, the adopted General Plan Update requires the Planning Commission and staff to review changes to the standards for industrial areas to allow “by right” certain medical facilities, and that is part of the comprehensive zoning review that is underway.

Council consensus was that this issue would need to be carefully considered because they do not want to discourage competition, but at the same time want to give any medical facility the very best chance of success. Because Morgan Hill already lost a hospital because of competition, the Council does not want to have conditions that would allow this to happen again; and they endorse trying to guide development to avoid the type of situation that can bring failure because of facilities that drive each other out of business.

Council Member Carr suggested that in the discussions with San Jose on the Coyote Valley Specific Plan, they should include some type of language regarding the establishment of a regional medical facility.

Mayor Kennedy stated that the long term objective is a full service acute care general hospital with a 24 hour emergency room; but agreed that we should make this type of simple positive statement encouraging the support of a regional facility. This suggestion could be taken back to the Sub-committee for formal wording, since tonight the Sub-committee is looking for ideas and suggestions from the Council that can be formalized into the presentation that will be taken to the Morgan Hill Community Health Foundation.

Council Member Carr asked for clarification on how the recommendations presented this evening differ from the policies and objectives established in the past; and for a firm definition of short term and long term. He also expressed concern about the statement that it is City government’s role to support and facilitate formation of a special district, stating that this is too strong a statement and this has not been discussed. He does not want to make that decision without a discussion. He also requested to know the rationale for the changes being recommended by the Sub-committee.

Council Member Tate referred to the examples listed under #4, and stated that this might be the opportunity to provide guidance regarding the issue of competition. Perhaps the examples could specify the number of facilities that would meet the needs of Morgan Hill while allowing for enough customers to make the facilities for the medical services financially viable. This would also provide a place to mention the regional goals as well.

Council Member Sellers stated that the Sub-committee is looking for ideas, thoughts and suggestions from the Council tonight. They will return to the Council for further discussion which will allow



Council Member Chang to be involved as well. When Council is satisfied, the Sub-committee can then take Council suggestions to the Morgan Hill Community Health Foundation for them to use in working on their objectives, which they will bring back to the Council.

Mayor Kennedy concurred.

Mayor Kennedy opened the floor to public comment

No comments being offered, public comment was closed.

**Action:** *Mayor Kennedy and Mayor Pro-Tempore Sellers will present the Council Members comments to the Medical Services Sub-Committee and return to Council for further discussion of the Medical Services Policy and Objectives.*

## **9. DISCUSSION OF OPTIONS FOR PARTICIPATION IN THE COYOTE VALLEY SPECIFIC PLAN**

City Manager Tewes presented the oral staff report, and stated that this item was placed on the agenda at the request of the Council following their workshop on the Coyote Valley Specific Plan. The intent of this item is to allow the Council to publicly express how strongly they feel about the issue of Coyote Valley development. He stated that some members of the community have suggested the City pursue legal strategies, but that a more responsible approach is to first address the planning issues being raised. The question raised at the recent workshop was just how much tax-payer dollars are to be invested in the pursuit of this issue.

Mayor Kennedy stated that he felt that there was an excellent beginning on addressing this issue at the workshop held last week with many of the local governmental agencies. He stated that it has proven to be effective, and felt that this led to getting Mayor Gonzales' attention. He feels that we are on the right path with this approach, and would like to continue with this route until we have exhausted all options before considering legal actions. Mayor Gonzales has offered to meet with our committee, and that is the most positive response we have had in a long time.

Council Member Tate agreed that this is a good approach, but expressed concern that there is no defined instruction as to what this Committee will be working on. Stated that he feels they should be working on a statement that says that given the assumptions that have already been made, there could be some misguided decisions made that will have an impact on Morgan Hill; and if those impact materialized, we would have to do something about it. We are not threatening, but just saying that they should let us participate so we can help guide the decisions and that we don't have consequences that we will be forced to do something about in the future. We would want to back that up by showing the impacts on areas like traffic and so forth.

Council Member Sellers agrees that legal action is premature at this time. His desire is to focus on prioritization of what this issue means to the City, and determine if it is a top priority, or just a monitoring situation. Based on actions we have already taken, we have shown it is a top priority, and he

thinks it would be helpful to have that as a positive statement. He stated that this is a top priority and the impacts are significant on our community, and that it is vital to have the surrounding issues resolved. This not only alerts San Jose, but also lets our own citizens know that we do consider it a top priority. He would like to see it done in a form such as a resolution, or whatever would be appropriate, to state that this is a top priority and we are going to be very involved. He also stated that he would like to consider hiring a consultant for this issue rather than adding to the burdens of city staff during these lean staffing times.

Mayor Kennedy stated that he sees this as a back and forth process. He felt that there was a good set of policy statements that came out of the meeting with the San Jose Planning staff, and these were presented to the summit of local agencies that was held last week. This is a good starting point. The next step is to take this information to Mayor Gonzales and get some feedback, and then have a Council meeting to review our policy statements and see if they still satisfy our goals or need to be modified.

Council Member Carr agreed and stated he hopes we keep the regional approach, because that in itself has gained us attention in San Jose and elsewhere. He has been approached by a member of the Coyote Valley Specific Plan Task Force who lives in Coyote Valley, and who made an offer to act as a voice for us on the Task Force. Council Member Carr suggested that the next time we have a summit we invite the entire Task Force to join us for the discussion. He believes we have more allies on the Task Force than previously believed, and that our actions have already made an impact.

Council Member Tate stated he agrees with Council Member Sellers suggestion that we make a formal declaration stating that this is of the utmost importance to the City.

Mayor Kennedy requested that this item be agendized for discussion at a future Council meeting with those specific issues that were raised; and, as Council Member Carr has suggested, also invite our regional south county partners and members of the Task Force to join us.

Mayor Kennedy opened the floor to public comment

No comments being offered, public comment was closed.

**Action:** *Mayor Kennedy requested that this item be agendized for further discussion at a future City Council meeting, and that the members of the recent Coyote Valley Specific Plan Workshop held by the City Council, and all members of the Coyote Valley Specific Plan Task Force be invited to join the meeting.*

## **10. DISCUSSION REGARDING THE NEED TO REVIEW TENTATIVE SUBDIVISION MAPS**

City Manager Tewes apologized that there was not a written staff report for this item included in the Council packet because it was decided to add it to the agenda at the last minute. It was recognized that there were going to be a series of discussion items upcoming, and this particular one could be easily explained. He has invited the former Director of Community Development, David Bischoff, to attend

tonight's meeting in order to answer any Council questions on this issue.

Mr. Tewes proceeded to explain that several years ago the City Council determined that they wanted to have a notice placed on the Council agenda whenever the Planning Commission approved a tentative subdivision map. The reason this occurred is because such a map is finally approved by the Planning Commission unless appealed; and if no one appealed it to the Council, the Council did not have a means to call up the item for discussion and potential action by the Council. Currently, these items are placed on the Consent Calendar with a recommendation of "Take No Action", which means the Council does not call this item up for discussion. In his experience, there has never been an instance when the Council has taken up a discussion of a tentative map approval by the Planning Commission. In almost all instances, the Council does have an opportunity to review the Development Agreement for the project. Because of a conflict of interest issue at the last meeting, it became necessary for the Council to pull a tentative map item from the Consent Calendar and the Council had to formally make a motion that the Council "Take No Action", which seemed very awkward. That is what caused the request by the Council to reconsider that policy of placing these items on the Consent Calendar.

Mr. Bischoff reported that this policy has been in place for about 20 years. Another possibility is that in some cities the Council does approve these maps, but in Morgan Hill the Council has given that responsibility to the Planning Commission. He suggested that 20 years ago when the Council first considered not approving subdivisions, there was some question as to the advisability of that, so the Council reserved for itself the ability to review those decisions that the Commission had made. He agreed with the City Manager that it is a very rare occasion when the Council would call up a decision by the Planning Commission. It is the same as a use permit or a variance, which does not come to the Council unless it is appealed. By eliminating this step, it doesn't change anything. Any appellant can still appeal to the Council to overturn the decision of the Planning Commission.

Council stated their consensus that it is no longer necessary to list the tentative map on the agenda for Council review.

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (4-0, with Chang absent) **Directed** staff to no longer bring Tentative Map Approvals for review by the City Council.*

Mr. Bischoff reminded Council that this will take some time because it requires an amendment to the Municipal Code. In the intervening time, these items may still appear on the agenda, but that does not mean that the staff has not followed Council direction.

## **11. PURCHASE OF FINANCIAL SYSTEM SOFTWARE**

Budget Manager Thai presented the staff report, and stated that the current system's hardware and technical support are outdated and creates a great deal of problems and additional work for the staff in managing the City's financial activities. It also does not have project management capability, which is needed to manage all the large projects the City is undertaking. He stated that the Eden system was unanimously chosen as the final candidate in the RFP process. He stated that all departments will

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benefit from this product, not just the Finance Department.

Council Member Sellers reported that he has heard detailed explanations of this issue at the Budget Committee meetings and the obvious obsolescence and insufficiency of the current system has been made clear. He praised the Finance Department staff for their continued outstanding performance, and stated his confidence in their decision making ability and their need for this purchase. He made the motion to approve the staff recommended actions.

City Manager Tewes requested that the motion be amended to include an additional authorization not listed on the agenda, but discussed in the fiscal impact section of the staff report. There is an appropriation needed in the current fiscal year from the General Fund for \$35,250, and from the Redevelopment Agency for \$16,300, in order to purchase the business license module. The motion, as recommended, would authorize the expenditure, but there needs to be this inclusion of the appropriation of the funds.

Council Member Sellers amended his motion to include the appropriation of these funds as stated by the City Manager.

**Action:**        *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (4-0, with Chang absent) **Authorized** the Purchase of Financial System Software to Replace the Existing Obsolete System.*

**Action:**        *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (4-0, with Chang absent) **Authorized** the Purchase of the Business License Module in Fiscal Year 2003/2004.*

**Action:**        *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (4-0, with Chang absent) **Authorized** the Purchase of the Remaining Modules in Fiscal Year 2004/2005.*

**Action:**        *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (4-0, with Chang absent) **Authorized** the fiscal year 2003/2004 appropriation of \$35,250 from the General Fund and \$16,300 from the Redevelopment Agency Fund for the purchase of the Business License Module.*

## ***Redevelopment Agency and City Council Action***

### **CLOSED SESSIONS:**

#### **CLOSED SESSION:**

##### **1.**

#### **CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Authority:	Government Code Sections 54956.9(b) & (c)
Number of Potential Cases:	2

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**CLOSED SESSION ANNOUNCEMENT**

Agency Counsel/City Attorney Leichter announced the 2 items on this agenda; and, concurrently, announced the 1 item listed on the special agenda.

**OPPORTUNITY FOR PUBLIC COMMENT**

Chairman/Mayor Kennedy opened the Closed Session items to public comment. No comment being offered, the public comment was closed.

**ADJOURN TO CLOSED SESSION**

Chairman/Mayor Kennedy adjourned the meeting to Closed Session at 7:52 p.m.

**RECONVENE**

Chairman/Mayor Kennedy reconvened the meeting at 9:30 p.m.

**CLOSED SESSION ANNOUNCEMENT**

Agency Counsel/City Attorney Leichter announced no reportable actions.

**FUTURE COUNCIL-INITIATED AGENDA ITEMS**

**Discussion of Options for Participation in the Coyote Valley Specific Plan:** Mayor Kennedy requested that this item be agendaized for further discussion at a future City Council meeting, and that the members of the recent Council Workshop on Coyote Valley Specific Plan, and members of the Coyote Valley Specific Plan Task Force be invited to join the meeting.

**ADJOURNMENT**

There being no further business, Chairman/Mayor Kennedy adjourned the meeting at 9:32 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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**MOIRA MALONE, DEPUTY AGENCY SECRETARY/DEPUTY CITY CLERK**



## **CITY COUNCIL STAFF REPORT**

**MEETING DATE:** *June 2, 2004*

### **PROTEST PRO-04-02: ANNEXATION ANX-02-02: COCHRANE – BORELLO II**

#### **RECOMMENDED ACTION(S):**

1. Hold Protest Proceeding and Accept Written Protest from property owners.
2. Determine assessed value of protest and adopt Resolution.

#### **EXECUTIVE SUMMARY:**

The applicant, Mr. Stanley Borello, is requesting to annex two parcels, totaling approximately 15-acres, into the City of Morgan Hill. The site is located east of Peet Road, between Cochrane Road to the north and west and Half Road to the south, and is surrounded on three sides by the City's boundary. Inclusion of the parcels into the City limits would represent a logical adjustment of the boundary. Mr. Borello is not protesting the annexation, but has requested this "Protest Proceeding" be held because of objections to the annexation raised by the second property owner, Mr. David Fanara, who does not wish to be included in the annexation due to concerns about his ability to continue stabling horses on his property. Both parcels must be annexed together because removing Mr. Fanara's parcel from the request would result in the creation of an island of unincorporated land within the City boundaries, which is prohibited by Government Code Section 56757 C4.

The applicant, Mr. Borello, submitted an application on March 24, 2004 requesting the Protest Proceeding before the City Council to require inclusion of the Fanara property in the proposed annexation. In accordance with LAFCO policy, when an annexation is proposed not having 100 percent consent by all property owners, the City Council is required to hold a public hearing to initiate a "Protest Proceeding". At the regular meeting of May 5, 2004, the Council held the required public hearing, adopted a resolution to initiate the Protest Proceeding, and set the Proceeding for the June 2, 2004 meeting, at which time the Council can accept the written protest. If no protest is received, the proceeding can be terminated and the annexation allowed to proceed. If a written protest is filed, the City Council has up to 30 days to determine the assessed land values of both properties in the annexation. If the protest is submitted by a landowner owning 50 percent or more of the overall assessed land value, the annexation must be terminated. According to the County Assessors Records, the assessed land value of the Borello property is \$434,563 and of the Fanara property is \$89,460. The applicant for the annexation (Borello) represents more than 50 percent of the assessed value. The City Council may therefore choose at this meeting to terminate the protest proceedings and allow the annexation to proceed by adoption of the attached Resolution.

**FISCAL IMPACT:** None. Filing fees were paid to the City to cover the cost of processing this application.

#### Attachments

1. Staff Report/Council Resolution (5/5/04 Council meeting)
2. Applicant's Written Protest
3. Vicinity Map

**Agenda Item # 17**

**Prepared By:**

**Planning Manager**

**Approved/ Submitted  
By:**

**City Manager**

## **RESOLUTION NO. \_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL TERMINATING THE PROTEST PROCEEDINGS FOR APPLICATION PRO-04-02. REGARDING “COCHRANE ROAD ANNEXATION NO. 11”, PROPERTY LOCATED EAST OF PEET ROAD, BETWEEN COCHRANE ROAD TO THE NORTH AND WEST AND HALF ROAD TO THE SOUTH OF APPROXIMATELY 15 ACRES. (APNs 728-34-006 and 007)**

**WHEREAS**, the City Council of the City of Morgan Hill has received a written protest from the applicant of Annexation ANX-02-02 requesting that a Protest Proceeding be held to allow annexation into the City of Morgan Hill certain territory designated “Cochrane Road Annexation No. 11”, located in the County of Santa Clara, State of California, hereinafter more particularly described; and

**WHEREAS**, the property, consisting of approximately 15 acres on the east side of Peet Road between Cochrane Road and Half Road (APNs 728-34-006 and 007), is contiguous to the City of Morgan Hill and is within the urban service area; and

**WHEREAS**, said territory is uninhabited and all owners of land included in the proposal have not consented to this annexation; and

**WHEREAS**, this Protest Proceeding is held in accordance with California Government Code Sections 57050-57052, 57075 and 57078 and with County of Santa Clara Local Agency Formation Commission guidelines for conducting Protest Proceedings.

**NOW, THEREFORE, BE IT RESOLVED**, that the City has determined from the County of Santa Clara Assessor’s records, that the assessed land value of the Borello property is \$434,563 and the assessed value of the Fanara property is \$89,460; and,

**THEREFORE, BE IT FURTHER RESOLVED**, the protest is submitted by a landowner owning less than 50 percent of the overall assessed land value; and,

**THEREFORE, BE IT FURTHER RESOLVED**, that the City Council of the City of Morgan Hill hereby terminates Protest Proceeding for PRO-04-02 at a public hearing held on June 2, 2004;

**PASSED AND ADOPTED** by the City Council of Morgan Hill at a Regular Meeting held on the 2<sup>nd</sup> Day of June, 2004 by the following vote.

<b>AYES:</b>	<b>COUNCIL MEMBERS:</b>
<b>NOES:</b>	<b>COUNCIL MEMBERS:</b>
<b>ABSTAIN:</b>	<b>COUNCIL MEMBERS:</b>
<b>ABSENT:</b>	<b>COUNCIL MEMBERS:</b>

**🏛️ CERTIFICATION 🏛️**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA**, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on June 2, 2004.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

**DATE:** \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**





## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: June 2, 2004***

### **DEVELOPMENT AGREEMENT AMENDMENT DAA 02-09:**

**Dewitt - Marquez**

#### **RECOMMENDED ACTION(S):**

1. Open/close Public Hearing
2. Waive the First and Second Reading of Ordinance
3. Introduce Ordinance

#### **EXECUTIVE SUMMARY:**

The applicant is requesting approval of an amendment to an approved development agreement for a five-lot subdivision to be constructed on a two-acre site located on the west side of Dewitt Avenue, approximately 1,000 feet south of Dunne Avenue, between Oak Park Drive and Spring Drive (APN 773-08-014) in Morgan Hill.

The project competed in the 2002 Measure "P" competition for building allotments. On May 14, 2002 and June 5, 2002, the Morgan Hill Planning Commission and City Council respectively approved two building allotments for Fiscal Year 2003-04 and a second-year phasing for two allotments for Fiscal Year 2004-05.

The initial development agreement was approved in May 2003 and received a six-month extension in December 2003. The applicant is requesting approval of an amendment to the development schedule to allow a six-month extension. The amended development agreement and schedule is attached for Council's reference.

The extended environmental review has delayed the project and caused several deadlines to lapse. As a result, the approved development schedule is not feasible. The applicant states that they will not be able to meet the remaining deadlines and requests a further six-month extension.

The Commission considered this application at its May 11, 2004 regular meeting. The Commission voted 5-0 recommending approval of the Development Agreement amendment, as prepared. The Planning Commission staff report and minutes are attached for Council's reference.

**FISCAL IMPACT:** None. Filing fees were paid to the City to cover the cost of processing this application.

**Agenda Item #18**

**Prepared By:**

**Contract Planner**

**Approved By:**

**Planning Manager**

**Submitted By:**

**City Manager**

## **ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1618, NEW SERIES, TO AMEND DEVELOPMENT AGREEMENT DAA-02-09 FOR APPLICATION MMP-02-02: DEWITT – MARQUEZ TO ALLOW FOR A SIX-MONTH EXTENSION TO THE APPROVED DEVELOPMENT SCHEDULE. (APN 773-08-014).**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

**SECTION 2.** The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

**SECTION 3.** The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No. 02-37, adopted May 14, 2002, has awarded allotments to a certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MMP-02-02: DeWitt – Marquez	5 single-family homes (4 allotments)

**SECTION 4.** The City Council hereby finds that the development agreement amendment approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

**SECTION 5.** The project applicant has in a timely manner, submitted necessary planning applications to pursue development. The applicant is requesting to amend the amended development agreement approved under Ordinance No. 1618, New Series, to allow for a six-month extension of the approved development schedule, due to delays not the result of developer inaction. Delays in project processing have occurred due to the extended period of time required to conduct the environmental analysis for the project. The amendment is granted, extending the deadline for building permit submittal for the two (2) building allotments awarded for 2003-04 to July 15, 2004, extending the deadline for building permit approval to September 30, 2004, and extending the deadline for commencing construction to December 31, 2004.

**SECTION 6.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

**SECTION 7.** Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

**SECTION 8. AMENDED DEVELOPMENT AGREEMENT.** The amended development schedule, attached as Exhibit “B”, shall replace the schedule approved under Ordinance No. 1618, New Series.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 2<sup>nd</sup> Day of June 2004, and was finally adopted at a regular meeting of said Council on the 16<sup>th</sup> Day of June 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

**AYES: COUNCIL MEMBERS:**  
**NOES: COUNCIL MEMBERS:**  
**ABSTAIN: COUNCIL MEMBERS:**  
**ABSENT: COUNCIL MEMBERS:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Irma Torrez, City Clerk

\_\_\_\_\_  
Dennis Kennedy, Mayor

∞ **CERTIFICATE OF THE CITY CLERK** ∞

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,** do hereby certify that the foregoing is a true and correct copy of Ordinance No. \_\_\_\_\_, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 16<sup>th</sup> Day of June 2004.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

**DATE:** \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**

**AMENDED EXHIBIT "B"**

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**FY 2003-04 (2 allotments), FY 2004-05 (2 allotments)**  
**DEVELOPMENT SCHEDULE MMP-02-02: Dewitt – Marquez Subdivision**

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<b>I. SUBDIVISION AND ZONING APPLICATIONS</b>	
Applications filed:	10-08-02
<b>II. SITE REVIEW APPLICATION</b>	
Application filed:	11-20-02
<b>III. FINAL MAP SUBMITTAL</b>	
Map, Improvements Agreement and Bonds:	12-01-03
<b>IV. BUILDING PERMIT SUBMITTAL</b>	
FY 2003-04 Submit plans to Building Division for plan check:	<b>7-15-04</b>
FY 2004-05 Submit plans to Building Division for plan check:	1-15-05
<b>V. BUILDING PERMITS</b>	
FY 2003-04 Obtain Building Permits:	<b>9-30-04</b>
FY 2004-05 Obtain Building Permits:	3-31-05
<b>VI. COMMENCE CONSTRUCTION</b>	
FY 2003-04 Commence Construction:	<b>12-31-04</b>
FY 2004-05 Commence Construction:	6-30-05

Failure to obtain building permits and commence construction by the dates listed above shall result in the loss of building allocations. Submitting a Building Permit application three (3) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least two (2) dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.



## **CITY COUNCIL STAFF REPORT**

**MEETING DATE:** *June 2, 2004*

Agenda Item # 19

Prepared By:

\_\_\_\_\_  
Asst. to the City  
Manager

Submitted By:

\_\_\_\_\_  
City Manager

### **2004 HAZARDOUS BRUSH PROGRAM**

### **COMMENCEMENT REPORT AND PUBLIC HEARING**

#### **RECOMMENDED ACTIONS:**

1. **Accept** 2004 Hazardous Brush Program Commencement Report
2. **Open/Close** Public Hearing

#### **EXECUTIVE SUMMARY:**

As part of the 2004 Hazardous Vegetation Management Program, Santa Clara County Fire Department staff have inspected properties in the Hazardous Hillside area. Property owners in these regions are obliged to meet special property maintenance guidelines to reduce the threat of fire. In particular, they must remove brush on their property that could provide fuel for a fire and increase the chances that fire on one property would spread to an adjoining property.

The Council adopted Resolution 5745 on December 3, 2003, declaring hazardous vegetation to be a nuisance and ordering its removal. The resolution also set the June 2, 2004 public hearing date for the brush abatement program. Brush abatement notices have been mailed to property owners in Morgan Hill whose properties have been identified as having, or potentially having, a problem with hazardous brush. In addition, notice of this public hearing has been published in the *Morgan Hill Times* per Government Code Section 39556.

The purpose of this public hearing is to hear from property owners who object to having their property in the brush abatement portion of the 2004 Hazardous Vegetation Management Program. The list of properties in the Brush Program, attached as Exhibit A, has been posted at City Hall for ten days prior to this public hearing as required.

The City controls the growth of hazardous vegetation under the authority set out in Chapter 8.20 of the Morgan Hill Municipal Code and in Government Code Sections 39560 and following. The City has a contract with the Santa Clara County Fire Marshal's Office which provides for County abatement of the property if the property owner does not maintain the property as required. If the work is completed by the Fire Marshal's Office contractor, costs for the work are added to the owner's property tax assessment.

The County's contractor will complete abatement work during the month of June. Staff will return to the Council on July 21, 2004 to present a list of property assessments. The assessments must be submitted to the County Assessor's Office prior to August 10, 2003.

**FISCAL IMPACT:** The Hazardous Vegetation Management Program is user fee supported. The per-lot assessment includes the actual costs for controlling vegetation plus the overhead cost to manage the program.



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: June 2, 2004***

### **HEARING FOR EXEMPTION TO UNDERGROUNDING UTILITIES – 17590 DEPOT STREET**

#### **RECOMMENDED ACTIONS:**

1. Open and close Hearing.
2. Grant exemption to the requirement to underground utilities with payment in lieu fees for the proposed development at 17590 Depot Street.

**Agenda Item # 20**

**Prepared By:**

**Assistant Engineer**

**Approved By:**

**Public Works Director**

**Submitted By:**

**City Manager**

**EXECUTIVE SUMMARY:** The Day Worker Center under development at 17590 Depot Street was conditioned to underground the approximately 280 linear feet of overhead utility lines along Depot Street. Overhead utility lines along the Main Avenue frontage of this parcel were recently relocated by the City under the “Main Avenue/UPRR Crossing Safety Improvements” project. Therefore, for purposes of this request, the in-lieu fee will apply to the Depot Street frontage only. Pursuant to City Code Section 12.02.110 (attached), the developer is requesting exemption from the requirement to underground the overhead utility wires and request to pay an in-lieu fee instead. Staff supports this request on the basis that the installation of these improvements on such a small scale would not be cost effective and could be installed more efficiently as a portion of a larger installation of improvements at a later date.

**FISCAL IMPACT:** In-lieu fees totaling \$28,840 will be placed in the Undergrounding Fund #350-37648 if this exemption is approved.



## **CITY COUNCIL STAFF REPORT**

**MEETING DATE:** *June 2, 2004*

### **APPLICATION ZA-04-08: TEXT AMENDMENT - RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDSCS) STANDARDS AND CRITERIA**

#### **RECOMMENDED ACTION(S):**

1. Open/Close the Public Hearing
2. Waive the first and second reading of the Ordinance
3. Introduce Ordinance (roll call vote)

**Agenda Item # 21**

**Prepared By:**

**Planning Manager**

**Approved/Submitted  
By:**

**City Manager**

**EXECUTIVE SUMMARY:** Section 18.78.188(C) of the Residential Development Control System (RDSCS) Ordinance requires the Planning Commission to review the standards and criteria following each competition, and to decide whether any changes or amendments are necessary for the next competition. In addition, Measure C, approved by the voters on March 2, 2004, requires the City Council to amend Article II of Chapter 18.78 of the Municipal Code, the "Specific Policies" (scoring criteria) as necessary to conform to all provisions of this initiative. All of the necessary changes required by Measure C are incorporated into the attached ordinance. A Subcommittee of the Planning Commission was appointed to evaluate the Measure C and other proposed changes which would be recommended to the City Council for adoption. The Subcommittee was comprised of three Planning Commissioners (Lyle, Mueller and Benich) and two developer reps (Dick Oliver with Dividend Homes and Bill McClintock with MH Engineering). Bonnie Tognazzini with the School District and Jan Lindenthal with South County Housing also served on subcommittee. City Staff involved in the evaluation process were also consulted and provided input to the Subcommittee. Recommendations of the Subcommittee were considered by the full Planning Commission at their April 11 and April 27 meetings.

The recommended changes to the RDSCS standards and criteria are outlined in the attached Ordinance. New or modified criterion is shown in ***bold italic text*** within the ordinance. Text to be deleted is shown in ~~strikeout~~. Some of the more significant changes proposed include: Defining a new "central core area" under the Orderly & Contiguous category required by Measure C and a new "Livable Communities" category that utilizes smart growth and transit oriented development concepts. The new evaluation criteria for the Livable Community category is contained in Section 18.78.335 of the attached Ordinance. Also attached is a color exhibit showing the new core area. The park in lieu fee commitments have been modified to include an overall cap of a \$3300 per unit, in addition to the standard in lieu park fee (subsections 5 a & b of 18.78.250). This is an increase of \$300 over the current cap to account for inflation. A minimum value of \$1100 dollars per unit equivalent has also been established for public improvement commitments within the Schools, Circulation and Public Facilities categories. This is an increase of \$100 over the current fee, again to account for inflation. Staff will provide a more detailed presentation of the changes at Wednesday's City Council meeting.

The Planning Commission voted 5-0 with two members absent to recommend approval of the Ordinance changes. Staff supports the proposed amendments as recommended.

**FISCAL IMPACT:** No budget adjustment required.

**ORDINANCE NO.     , NEW SERIES**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY  
OF MORGAN HILL AMENDING ARTICLES II AND III,  
THE STANDARDS AND CRITERIA AND PROCEDURES  
OF THE RESIDENTIAL DEVELOPMENT CONTROL  
SYSTEM AS SET FORTH IN CHAPTER 18.78 OF THE  
MORGAN HILL MUNICIPAL CODE.**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY  
ORDAIN:**

**SECTION 1.** The Residential Development Control System (RCDS) is codified at Chapter 18.78 of the Municipal Code. Measure C, approved by the voters on March 2, 2004, and adopted under Ordinance No. 1665, requires the City Council to amend Article II of Chapter 18.78 of the Municipal Code, the “Specific Policies” as necessary to conform to all provisions of this initiative. In accordance with Measure C and other changes as recommended by the Planning Commission, the City Council hereby updates and amends the provisions of Article II and Article III of Chapter 18.78, and accordingly adopt the Code amendments set forth below.

Changes from the text of the Morgan Hill Municipal Code are shown in the following sections amending Articles II and III by strike-out text for deletions, and bold italic text for additions.

**Article II. Specific Policies**

**18.78.180     Background.**

A.     The residential development control system was adopted in response to the need to establish a growth rate in Morgan Hill that is conducive to orderly and controlled residential development. The success of any growth-management system depends upon how well it addresses and exemplifies the goals of the general plan, as well as other adopted city ordinances and documents. Any requirements made by this system shall use existing city plans and policies, as well as exploring innovative means to facilitate its implementation.

B.     The residential development control system is a competitive qualifying process intended only to compare projects and allow the highest scoring projects to proceed on in the development process. Developers and city staff should not construe it as a design review or an absolute approval with any entitlement other than the right to file a tentative map or development plan. Changes to the project (1) are encouraged to improve its quality; and (2) may be required for formal project approval.

C.     Concerns have been expressed about the Morgan Hill Unified School District (MHUSD) impaction situation and the fact that the rural character associated with the city is being lost to urban development that is outstripping the city's ability to provide adequate services and facilities. Also, a disproportionate amount of moderate to expensive single-family homes have been built, as opposed to a balance of housing types at prices to meet the needs of all the



segments of the population, including those of low or fixed incomes. It is intended that a response to these concerns will be accomplished in a practicable manner through implementation of the residential development control system, which will concurrently address the preservation of open space and the natural environment. (Ord. 1034 N.S. § 1 (part), 1991)

**18.78.182      Rate of growth.**

The method by which controlled growth will be accomplished involves building approximately two hundred fifty\* new dwelling units annually in order to reach a population not to exceed ~~thirty-eight thousand eight hundred~~ *forty eight thousand* people by the year ~~2010~~ *2020*.

\*      The number of building allotments authorized under the RDSCS may be less than two hundred fifty units per year because of other housing which would be exempt from the RDSCS (construction of single dwellings, etc.) (Ord. 1034 N.S. § 1 (part), 1991)

**18.78.184      Procedures.**

A.      In May of each year preceding an allotment evaluation, the planning officer and planning commission will provide recommendations to the city council regarding the total number and distribution of building allotments. The city council will establish the total number of housing units to be awarded and the number of units to be allotted for each type of housing.

B.      The planning officer will inform interested developers of the total number of units available and the various types of housing units that will be approved. The planning officer will hold a pre-competition meeting with all persons interested in submitting an application. The planning officer will explain the allotment process and distribute applications. At this meeting developers will be encouraged to indicate the proposed project location, the number of units, and the type of housing. This information will assist the city and developers in providing better competition for the various types of housing units to be built under the RDSCS process.

C.      In an attempt to further increase the quality of project design, a voluntary preliminary review process shall be implemented. This review process shall have staff priority in the months of June, July, and August whereby responses to these submittals shall be received within four weeks from the date of filing. These responses shall include, but not be limited to, the following: (1) Section A evaluation; (2) Section B evaluation, (3) any recommendations for project improvement; (4) any public health, safety and welfare issues; (5) any need for any additional information, plans or studies. (Ord. 1179 N.S. § 1, 1994; Ord. 1034 N.S. § 1 (part), 1991)

**18.78.186 Overview.**

A. The first section (Section 18.78.200) is concerned with the general ability of the city to provide major public facilities and services to new residential projects without creating additional impactation. This section is weighted heavily, meaning that a proposed project must obtain the minimum required points (nine points) and receive minimum passing scores under certain categories in order to proceed to the next step of the evaluation.

B. The next step, (Section 18.78.210) reflects the quality of the project design and the extent to which it contributes to the welfare of the community. The intent of these criteria is to encourage competition and to promote additional effort which creates innovative designs that satisfy user needs. The standards and criteria in Part 2 of this article are guidelines, and it is important to note that a developer is not precluded from improving upon or augmenting these guidelines, upon approval of the planning officer. Criteria for each category in Part 2 of this article are, therefore, more subjective and, thus, merely points out those items which the developer should consider to maximize his rating.

C. After successful completion of both Parts 1 and 2, the projects which have received at least nine points in Part 1 and have been given the most points in Part 2 (one hundred twenty-five points and over) with minimum passing scores in certain categories will then be eligible for allotments and subsequent building permits, subject to Section 18.78.120. Those that may not receive any allotment this year will have an opportunity to improve their designs and reapply during the next competition.

D. The procedure for allotting development allotments has been incorporated into this system. The development allotment evaluation encourages all developers to locate and design the best project possible by following standards and criteria for both Sections 18.78.200 and 18.78.210. (Ord. 1034 N.S. § 1 (part), 1991)

**18.78.188 Additional information.**

A. Project Size. Council priority is to give priority to partially completed projects. This policy will allow continuity to the allotment process. The portion of the uncompleted project competing in a competition should be equal to or superior in quality to the original project receiving an allocation. Project applications for over one hundred fifty units will be considered based on benefits to the community.

B. Public Notices. The council policy of notifying neighboring properties within three hundred feet of proposed projects is expanded to give a greater number of people notice by means of the utility bill inserts and notice on cable TV.

C. Review of Standards and Criteria. The planning commission shall review the standards and criteria each ~~May~~ **March**, following an RDCS competition, to determine whether any changes or amendments are necessary for the next competition, to begin each new allotment year, within sixty days after the awarding of allotments. (Ord. 1034 N.S. § 1 (part), 1991)

**18.78.190 Evaluation--Standards and criteria.**

A. As provided for in Section 18.78.100 A, the planning officer shall review each application and determine whether or not the proposed development conforms to the City's General Plan. In addition, the planning officer shall review each application for conformance with the following: City street, parking and site development standards as set forth in Chapter 17.34 and Title 18 of the Morgan Hill Municipal Code. If the PO determines that a proposed development does not conform to the city codes as cited above, the application shall be rejected. Notice of such rejection shall be given pursuant to Section 18.78.100 A.

B. Within fifteen days after such notice is mailed, the applicant may appeal the decision of the PO to the city council as provided in Section 18.78.100 B. In considering an appeal the city council shall either affirm the decision of the PO to reject the application on the basis of nonconformity with the plans (General Plan and City Codes), or reverse the decision by finding that the proposed development is in conformity with the plans, or permit the applicant to modify his proposed development to bring it into conformity with the plans.

C. Proposed developments found by the PO or city council to conform to the General Plan shall be evaluated by the PO and awarded points as hereinafter set forth. The planning commission shall establish a specific set of standards and criteria to direct the PO in assigning points under each category in Parts 1 and 2 of this article. The PO shall submit his evaluation to the planning commission and the commission shall approve, disapprove or modify the PO's evaluation by simple majority vote. (Ord. 1179 N.S. § 2, 1994; Ord. 1034 N.S. § 1 (part), 1991)

## Part 1. Point System

### **18.78.200 Rating system for proposed developments.**

Each proposed development shall be examined for its relation to and impact upon local public facilities and services. The appropriate city department or outside public agencies shall provide recommendations to the PO, and the PO shall rate each development by assigning from zero to two points for each of the following:

~~A. 1. "The capacity of the appropriate school to absorb the children expected to inhabit a proposed development without necessitating or adding to double sessions or other unusual scheduling or classroom overcrowding." (Written evaluation of the MHUSD.)~~

~~2. Each subdivision application shall be reviewed by the MHUSD for determination of impact on school classrooms and facilities. The MHUSD shall determine the potential number of children per household according to the district-wide average.~~

~~2 Points. Double sessions or unusual scheduling or classroom overcrowding do not exist, nor will the proposed subdivision create double sessions or unusual scheduling or classroom overcrowding.~~

~~1 or 1.5 Points. Double sessions or unusual scheduling or classroom overcrowding exist prior to the subdivision application, and mitigation measures result in fewer students on double session or unusual scheduling or classroom overcrowding.~~

~~0 Points. The proposed subdivision would create double sessions or unusual scheduling or classroom overcrowding. Double sessions or unusual scheduling or classroom overcrowding exist prior to the subdivision application, and mitigation would result in the same or a greater number of students on double sessions or unusual scheduling or classroom overcrowding (or in any way fails to meet the standards for one or two points). (Ord. 1034 N.S. § 1 (part), 1991)~~

~~B A. 1. The ability and capacity of the water system to provide for the needs of the proposed development without system extensions beyond those which the developer will consent to provide." (Comments of the director of public works.)~~

~~2. Each subdivision application shall be reviewed by the director of public works for determination of the ability and capacity of the water system to provide for the needs of the proposed development.~~

~~2 Points. The existing water system and improvements that upgrade water service and fire protection in the general neighborhood such as gridding, well, or booster pump, are provided as determined by the director of public works.~~

~~1 or 1.5 Points. The existing water system has adequate capacity to serve the development and improvements would tie into existing water mains without gridding or otherwise providing upgrades to the existing water system.~~

0 Points. The existing water system and improvements necessary for water service or fire protection will tax the existing system beyond the city's ability to provide adequate service.

€ B. 1. "The ability and capacity of the sanitary sewer distribution and treatment plant facilities to dispose of the waste of the proposed development without system extensions beyond those which the developer will consent to provide." (Comments from the director of public works.)

2. Each subdivision application shall be reviewed by the director of public works for determination of the ability and capacity of the sanitary sewer distribution and treatment plant facilities to dispose of the waste generated by the proposed development.

2 Points. Existing sewer lines and treatment plant have sufficient capacity to serve the project.

1 or 1.5 Points. Extension of existing sewer lines directly from the project, and the sanitary waste generated by the project which taxes the existing line capacity is mitigated as determined by the director of public works, and there is sufficient capacity in the treatment plant.

0 Points. The proposed development would adversely impact the existing line capacity or treatment plant, or the existing line capacity is insufficient to handle the waste generated by the proposed project (or in any way fails to meet the standards for one or two points).

Ð C. 1. "The ability and capacity of the drainage facilities to adequately dispose of the surface runoff of the proposed development without system extensions beyond those which the developer will consent to provide." (Comments from the Santa Clara Valley Water District and the director of public works.)

2. Each subdivision application shall be reviewed by the director of public works and Santa Clara Valley Water District for determination of the ability and capacity of the drainage facilities to adequately dispose of the surface runoff of the proposed development.

2 Points. Local drainage generated by the project is capable of draining into existing storm drainage facility, or permanent public improvements to carry the runoff into a receiving drainage way which has sufficient capacity is provided.

1 or 1.5 Points. Local drainage generated by the project is mitigated by use of private on-site detention with higher value given for permanence, quality and guaranteed maintenance.

0 Points. Local drainage generated by the project is not capable of draining into the existing permanent storm drainage facility (or in any way fails to meet the standard two points).

£ D. 1. "The ability of the *city-designated* fire department of the city, or other agency pursuant to a contract or mutual aid agreement, to provide fire protection according to the established response standards of the city without the necessity of establishing a new station or requiring addition of major equipment or personnel to an existing station, and the ability of the police department to provide adequate patrols for residential and traffic safety without the necessity of acquiring new equipment or personnel." (Comments from the fire and police departments.) (Ord. 1034 N.S. § 1 (part), 1991)

2. Each subdivision application shall be reviewed by the fire and police departments for the determination of the ability of the fire department to provide fire protection according to the established response standards and the ability of the police department to provide adequate patrols for residential and traffic safety. Proposed developments must be assigned a minimum of one point in this category to qualify under Part 1 of the evaluation.

1.5 Points. Fire protection response times are within the established response standards of the city from at least two fire stations.

1 Point. Fire protection response times are within the established response standards of the city from at least one fire station and no more than 15% in excess of the response time standard from a second station.

.5 Points. Fire protection response times are within the established response standards of the city from at least one fire station.

0 Points. The project cannot be served by the existing fire personnel without requiring additional stations, equipment or personnel (or in any way fails to meet the standard for a .5 point total above)

.5 Points. The project adjoins existing developed land with proper road access for maximum efficiency of police patrols.

NOTE: For scoring purposes, the city Fire Department or contract agency, shall publish on July 1 of each competition year, a map showing the area which can be serviced within the established fire response time standard from the California Division of Forestry facility located on Monterey Road at Watsonville Road.

~~F E~~. 1. "The ability and capacity of major street linkage to provide for the needs of the proposed development without substantially altering the existing street system (the desired target traffic level being no worse than "***D+***" "***E***" level *of* service as defined in the 1985 Transportation Research Board Report # 209), ***except as otherwise allowed in the General Plan***, and the availability of other public facilities (such as parks, playgrounds, etc.) to meet the additional demands for vital public services without extension of services beyond those provided by the developer." (Comments from the appropriate department heads.)

2. Each subdivision application shall be reviewed by the director of public works and parks and recreation director for determination of the ability and capability of major street linkage to provide for needs of proposed development and of the availability of other public facilities, such as parks and playgrounds, to meet the additional demands. Proposed developments must be assigned a minimum of one point in this category to qualify under Part 1 of the evaluation.

2 Points. The project can be served by the existing parks and street systems, and the completion of the project will not overload any local, collector or arterial street in the immediate area.

1 or 1.5 Points. The project can be served by the existing parks and street systems as defined above, and if there are public off-site improvements, they are relatively minor and the project will not contribute to the need for major street improvements.

0 Points. Compliance to Chapter 17.28 of this code. The project cannot be served by the existing street system, and will contribute to the need for major off-site public improvements (or in any way fails to meet the standard for one or two points).

NOTE: Development may be evaluated on an individual basis on its ability to provide private recreational service for its residents that complement city services, i.e., trails, private open space, association facilities, etc. All proposed trails, private open space and associated facilities should be permanently secured with appropriate documentation at the time of development. (i.e., deeds, easements, C.C.& Rs., dedication, homeowners associations, etc.). Land that is set aside for the above mentioned items as a nonpermanent use, could dedicate all future development rights to the city. This procedure is to allow neighborhood control over land that may not be needed in the future (i.e., storm water retention areas). (Ord 1323 N.S. §§ 36 and 37, 1997; Ord. 1228 N.S. § 1, 1995; Ord. 1179 N.S. §§ 3 & 4, 1994; Ord. 1034 N.S. § 1 (part), 1991)

Part 2. Specific Standards and Criteria

**18.78.210 Schools.**

A. ~~Point Range and Policies:~~

<del>_____</del>	<del>21</del>	<del>_____</del>	<del>25</del>	<del>High quality</del>
<del>_____</del>	<del>16</del>	<del>_____</del>	<del>20</del>	<del>Above average</del>
<del>_____</del>	<del>11</del>	<del>_____</del>	<del>15</del>	<del>Average</del>
<del>_____</del>	<del>6</del>	<del>_____</del>	<del>10</del>	<del>Below average</del>
<del>_____</del>	<del>0</del>	<del>_____</del>	<del>5</del>	<del>Poor quality</del>

~~\_\_\_\_\_~~ 1. ~~"The provision of *school facilities and* amenities needed schoolrooms in the form of permanent or relocatable buildings or the provision of other mitigating measures as attested by agreement with the Morgan Hill Unified School District (MHUSD) *to the extent such consideration is not in conflict with state law.*~~

~~.....~~ (25 points)"

B. Standard and Criteria:

1. **Seventeen points** will be awarded for the payment of the district-adopted developer fees as provided by the Leroy F. Greene School Facilities Act of 1998. Full market value credit will be applied to a direct payment to the School District, for donated land, construction, or other services provided by a developer or project property owner that relate to provision of school facilities.

2. Up to ~~four~~ **six** additional **points** may be awarded to a project where:

At the time of application submittal or applicant commits as part of the first year of the first phase of the current application, a safe walking route exists ***or will be provided*** between the project site and existing or planned MHUSD schools. A safe route is defined as ~~providing~~ continuous sidewalks and/or paved pedestrian pathways, cross walks and caution signals at designated street intersections between the project and a school site.

The distance to a school is measured as the lineal distance a student would walk, from the average center point of housing in a project to the nearest entrance point of the nearest school grounds.

a. The project is within 3/4 of a mile of a school serving grades K through 3 and:

i. The students are not required to cross railroad tracks, or a street that currently functions (based on peak hour level of service ***as determined by the Public Works Department***) as a collector or arterial. **(half point)**



ii. The students are not required to cross railroad tracks, or a street that is designated within the General Plan as a collector or arterial. **(half point)**

b. The project is within 3/4 of a mile of a school serving grades 4 through 6 and:

i. The students are not required to cross railroad tracks, or a street that currently functions (based on peak hour level of service *as determined by the Public Works Department*) as an arterial. **(half point)**

ii. The students are not required to cross railroad tracks, or a street that is designated within the General Plan as an arterial. **(half one point)**

c. The project is within 1.5 miles of a middle/intermediate school and :

i. The students are not required to cross railroad tracks, or a street that currently functions (based on peak hour level of service *as determined by the Public Works Department*) as an arterial unless the most direct street crossing can occur at a signalized intersection. **(half point)**

ii. The students are not required to cross railroad tracks, or a street that is designated within the General Plan as an arterial unless the most direct street crossing can occur at a signalized intersection. **(half one point)**

d. The project is within 1.5 miles of a high school. **(one two points)**

e. Proposed development will be for senior citizens as defined in Section 51.2 of the State Civil Code. **(four six points)**

**NOTE:** For scoring purposes, the anticipated attendance area for an existing or planned school shall be as determined by the Board of Education and published by the School District as of ~~December 1st~~ **September 30** of the fiscal year for each competition year. A planned school is defined as a site designated by the School Board for a future school prior to ~~March 1st~~ **September 30** of the fiscal year the competition is held. Scoring for a multi-year/phased development includes recognition of all pedestrian safety or traffic improvements provided in the initial or previous phases of the development.

3. Up to **four additional points** may be awarded to a project which:

a. Provides off-site pedestrian safety improvements or traffic safety improvements near a MHUSD school. ~~Improvements must be located within 1.5 miles (straight line distance) of a project site.~~ Any proposed pedestrian and traffic safety improvements cannot be redundant of improvements committed to in other

categories. The cost of the improvements must be valued at \$ ~~4000~~ **1100** per point per unit. ~~For scoring purposes, priority will be given to~~ **The** pedestrian improvements and **traffic safety** improvements **must be** made **to an elementary** school within 3/4 of a mile (**straight line distance**) of the **edge of** project site **or the same improvements can be made to a middle or high school within the City's Urban Service Area.** (up to three points)

**Note:** *The public improvements offered under the above section must be separate from the public improvements offered under Section B.1.f of the Public Facilities Category, Section B.3.a thru c of the Circulation Efficiency Category or B.5 of the Livable Communities Category.*

- b. The project is located within a Community Facilities (Mello-Roos) District established by the Morgan Hill Unified School District to finance new school facilities. The proposed project phase(s) will only receive points in this category if their Mello-Roos payment exceeds by \$ ~~4000~~ **1100** or more per dwelling unit the Leroy F. Greene School Facilities Act (state-mandated) fees in effect on December 1st of the fiscal year of the competition. One point will be awarded for each \$ ~~4000~~ **1100** per dwelling unit the proposed project's average dwelling unit school fees costs exceeds the state-mandated per dwelling unit fees. **(up to three points)**

**NOTE:** Full market value credit will be applied to a direct payment to the School District, for donated land, construction, or other services provided by a developer or project property owner that relate to provision of school facilities. (Ord. 1575 N.S. § 1, 2002; Ord. 1517 N.S. § 1, 2001; Ord. 1486 N.S. §§ 1 & 2, 2000; Ord. 1404 N.S. § 1, 1998; Ord. 1346 N.S. § 1, 1997; Ord. 1304 N.S. §§ 1 & 2, 1996; Ord. 1228 N.S. § 2, 1995; Ord. 1179 N.S. §§ 5 & 6, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

**18.78.220 Open space.**

**A. ~~Point Range and Policies.~~**

<del>18</del>	<del>20</del>	<del>High quality</del>
<del>14</del>	<del>17</del>	<del>Above average</del>
<del>10</del>	<del>13</del>	<del>Average</del>
<del>5</del>	<del>9</del>	<del>Below average</del>
<del>0</del>	<del>4</del>	<del>Poor quality</del>

~~1.~~ "The provisions of public and/or private usable open space, and where applicable, greenbelts.

..... **(20 points)"**

**2 I.** The provisions of open space is desirable for the physical and mental well-being of the city residents, as well as preserving a rural atmosphere and invoking a positive reaction to the environment. These open spaces can then be used for both passive and active recreation for all age groups, while also preserving the environment for present and future generations to enjoy.

**B. Standards and Criteria.**

1. Open space areas are provided or maintained within the proposed development.

a. Provides open space buffer areas adjacent to freeway or arterial streets, measuring five feet in depth in excess of the zoning code requirements for **one point**, 10 feet in excess of the code for **two points**. **(up to two points);**

b. Public or private common useable open space is encouraged where neighborhood homeowners associations or other acceptable private maintenance entity can be used to coordinate their use and maintenance **(three points);**

c. Provides convenient access to public or private parks internal to the project where appropriate through the use of bicycle and pedestrian pathways. Bicycle and pedestrian pathways shall be located in areas no less than 20 ft. wide, with an average width of 30 ft. (for the entire length of the path). The pathway provided shall be paved or other suitable durable surface and a minimum of 7 ft. in width. The proposed pathway(s) cannot be redundant of public sidewalks. **(one point)**

d. Provides accessibility to existing or proposed public parks and open space areas outside the project boundary and encourages multiple uses and fee dedication of open space areas adjacent to flood control right of ways and recharge facilities. Points will only be awarded where the relevant public agency has provided written approval to allow access between the project and the aforementioned facilities. The access provided cannot be redundant of the public sidewalk. **(one point).**

**Note:** Requires public agency ownership or agreement to accept dedication of the land by the public agency.

e. Historical sites and landmarks on or adjacent to the project site are maintained in as natural state as possible with limited supportive development such as parking facilities, fencing, signing, etc. **(up to two points)**

2. Provides a high ratio of total open space area. **(A maximum of eleven points will be assigned under this criteria)**

<u>Building Coverage (%)</u>	<u>Points</u>
45 - < 50	3
40 - < 45	4
35 - < 40	5
30 - < 35	6
25 - < 30	7
20 - < 25	8
15 - < 20	9
10 - < 15	10
0 - < 10	11

Building coverage is defined as that portion of the overall project master plan, exclusive of driveways and streets, which is covered by a building, parking lot or carport.

3. There is a maximum of **6 points** available in this category.

a. The project will receive **three points** for a commitment to purchase transferable development credits (TDCs) from property owners with land of greater than twenty percent slope. (Based upon the cumulative project to date ratio of one TDC for every twenty-five dwelling units proposed.)

b. Projects of 24 units or less which do not provide a common area park or open space will receive **six points** for a commitment to purchase double TDC's.

c. Projects zoned R-2, R-3, or similar higher density classification will receive **six points** for a commitment to purchase double TDC's.

**Note 1:** In lieu of the TDC commitment, projects of 24 units or less and affordable project developments will be awarded **four points** for payment of an open space fee at the rate of \$15,000 per TDC. Eligible projects that elect to pay double the open space fee will be awarded **six points**. The amount of the open space fee shall be based on the average cost per dwelling

unit for an equivalent TDC commitment as specified above. The open space fee shall be adjusted annually in accordance with the annual percentage increase or decrease in the median price of a single-family detached home in Santa Clara County. The base year from which the annual percentage change is determined shall be January 1, 1996. The base year may be adjusted by City Council Resolution prior to the filing deadline for each competition year.

**Note 2:** Projects containing both single and multi-family zoning will be granted a proportional share of points for commitments to a. & c. above. Points will be granted based on a percentage of units within the various zoning districts within the entire overall project. For example, a project of 50 percent R-2 and 50 percent R-1 would receive 50 percent of the 6 points available under 3c. and 50 percent of the 3 points available for the single-family TDC commitment under 3a. for a total of 4.5 points (rounding will occur to the nearest half point). (Ord. 1575 N.S. §§ 2 & 3, 2002; Ord. 1517 N.S. §§ 2 & 3, 2001; Ord. 1486 N.S. §§ 3 & 4, 2000; Ord. 1438 N.S. § 1, 1999; Ord. 1404 N.S. § 2, 1998; Ord. 1346 N.S. § 2, 1997; Ord. 1228 N.S. § 3, 1995; Ord. 1179 N.S. § 7, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

**18.78.230      Orderly and contiguous development.**

A.      ~~Point Range and Policies.~~

_____ 18 _____	_____ 20 _____	High quality
_____ 14 _____	_____ 17 _____	Above average
_____ 10 _____	_____ 13 _____	Average
_____ 5 _____	_____ 9 _____	Below average
_____ 0 _____	_____ 4 _____	Poor quality

\_\_\_\_\_ 1. \_\_\_\_\_ "The extent to which the proposed development accomplishes the orderly and continuous extension of existing development rather than "leapfrog" development, by using land contiguous to urban development within the city limits or near the central core and by the filling in on existing utility lines rather than extending utility collectors.

..... (20 points)"

*For scoring purposes, "the central core" is the area illustrated on the Central Core Map, attached as Exhibit B and described generally as that area bounded on the west by Del Monte Avenue from Wright Avenue to Ciolino Avenue and by West Little Llagas Creek from Ciolino Avenue to Cosmo Avenue; on the east by the rail road tracks from the easterly prolongation of Wright Avenue to Main Avenue, by Butterfield Boulevard from Main Avenue to Dunne Avenue, and by Church Street from Dunne Avenue to the easterly prolongation of Cosmo Avenue; on the north by Wright Avenue and its easterly prolongation to Church Street.*

2.      A well planned community is one which provides for the needs of its residents. Convenience, economy, and service are aspects which an orderly and contiguous development pattern can help facilitate.

B.      Standards and Criteria.

1.      Develops lands near the central core of the city as defined by ~~the planning officer (PO) at least every two years~~ **Exhibit "B" to Measure "C" approved by the voters on March 2, 2004.** . There is a benefit for development to be within the central core area. However, it is recognized that the city does not have a well defined central core. Therefore, greater emphasis is to be given to contiguous patterns of growth. Projects within the core area will receive eight points. Projects located outside the core area will receive from **zero** to seven points depending on their relationship to the core area as shown below:

- a.      Within central core, eight points,
- b.      Within ~~eight six~~ hundred feet of the central core area, ~~seven~~ **7.5** points;
- c.      Within one thousand ~~six two~~ hundred feet of the central core area, ~~six~~ **7** points;
- d.      Within ~~two one~~ thousand ~~four eight~~ hundred feet of the central core area, ~~five~~ **6.5** points;

- e. Within ~~three~~ **two** thousand ~~two~~ **four** hundred feet of the central core area, ~~four~~ **6** points;
- f. Within ~~four~~ **three** thousand feet of the central core area, ~~three~~ **5.5** points;
- g. Within ~~four~~ **three** thousand ~~eight~~ **six** hundred feet of the central core area, ~~two~~ **5** points;
- h. Within ~~five~~ **four** thousand ~~six~~ **two** hundred feet of the central core area, ~~one~~ **4.5** points;
- i. ***Within four thousand eight hundred feet of the central core area, 4 points;***
- j. ***Within five thousand four hundred feet of the central core area, 3.5 points;***
- k. ***Within six thousand feet of the central core area, 3 points;***
- l. ***Within six thousand six hundred feet of the central core area, 2.5 points;***
- m. ***Within seven thousand two hundred feet of the central core area, 2 points;***
- n. ***Within seven thousand eight hundred feet of the central core area, 1.5 points;***
- o. ***Within eight thousand four hundred feet of the central core area, 1 point;***
- p. ***Within nine thousand feet of the central core area, ½ point;***
- q. More than ~~five thousand six hundred~~ **nine thousand** feet from central core area, zero points.

Note: If any portion of a project is within the central core, as defined by the PO, that project shall be considered within the central core area. The distance from the central core shall be measured using the minimum distance between any portion of a parcel and the central core boundary measured in a straight line.

2. Fills in existing utility lines (requires no off-site extensions) and provides a contiguous pattern of growth. If water is available at the site and the water main is of sufficient capacity and supply to serve the proposed project and future development, the project will receive **one point**. If sewer is available to the site and the sewer main has sufficient capacity to serve the proposed project and future development, the project will receive **two points**. If storm drains are of sufficient capacity to serve the project and are available to the site, the project will receive **one point**. If the project is located within the established response time standard of one fire station, the project will receive **one point**. If the project is located within the established response time standard of two or more fire stations, the project will receive **one additional point**.

3. A proposed development located within the existing urban service area which provides for orderly growth and urban in-fill is preferable and helps prevent premature urbanization of agricultural land. Projects that provide for orderly growth patterns throughout residential neighborhoods and compatibility with adjacent and nearby land uses are preferable. Projects that are located adjacent to land that has been developed or approved for development shall be scored as follows:

- a. > 0 -- 20% Adjacent to existing development, **one point**
- b. >20 -- 40% Adjacent to existing development, **two points**
- c. >40 -- 60% Adjacent to existing development, **three points**
- d. >60 -- 80% Adjacent to existing development, **four points**
- e. >80 -- 100% Adjacent to existing development, **five points**

Adjacent development is defined as contiguous property located within MH's city limits, urban service area, or urban growth boundary (UGB) and which is developed to its ultimate potential according to the city's General Plan or zoning of the property, or at least substantially developed according to the General Plan or zoning. To be considered substantially developed, at least ninety-five percent of the contiguous land area must be committed or developed to its ultimate use. Contiguous property does not include streets, railroad rights-of-way, or parcels held in fee title by a public utility or public agency containing above or below ground utilities such as gas pipelines, electric power transmission lines, or major water distribution pipelines.

County lands dedicated as a public facility or encumbered with an open space easement, or contiguous property within MH's UGB committed to an ultimate land use such as a city park, developed school site, or private open space will also be considered as adjacent development. Open space lands which are owned in private must have a public open space easement recorded over the corresponding area. For scoring purposes, undeveloped property which by ~~December~~ **1<sup>st</sup> September 30<sup>th</sup>** of the fiscal year the competition is held has received either final map approval, or tentative map and development agreement approval for projects with previously completed phase(s), or for which building permits have been issued, shall be considered to be developed property. The perimeter established for the complete (master-planned) project will be used to determine adjacency for every RDCS submittal. Where previously allocated phases of the same project have been developed or have received final map approval and are immediately adjacent to an otherwise undeveloped external boundary, that portion of the project's perimeter shall then be considered developed, provided the project is making satisfactory progress according to the approved development schedule (project is not in default).

The percentage of a property that is adjacent to development shall be that percentage of the combined length of the subject property lines which is determined to be contiguous to adjacent development as defined in this subsection. The subject property is defined as a single parcel or contiguous parcels of record on which the proposed project would be located and shall include that portion of the subject property designated for future development. A designated remainder parcel shall not be considered a portion of the subject property except where development on all or a portion of the remainder parcel is proposed as part of the current project application.



4. A proposed development which is a subsequent phase of a previously approved project that has been awarded allotments provides for the continuous extension of existing development.

a. A proposed development which is a subsequent or final phase of a previously allocated development and consists of 30 dwelling units or less shall be awarded two points. **(two points)**

b. A continuing project will receive one point if one half of the units allocated for the fiscal year the competition is held ~~meet the under construction criteria by December 15~~ ***have been issued building permits by September 30***, AND all prior phases are under construction or completed (excluding customs). ~~For example, a project in the competition held in FY 2002-03 with allocations within fiscal year 2002-03, must have 50% of its 2002-03 allotments and all prior years' units under construction by December 15, 2002 to be eligible for this point.~~ **(one point) OR**

If a proposed development is a continuing project and does not have any allocations for the FY the competition is held, the project will receive one point if all previous phases (if any) are under construction.

**Note:** To qualify for any points under paragraph B4, the proposed development at total build-out, shall not exceed the number of units proposed in the original Development Application from which the project had been awarded an initial building allotment, unless approved by the Planning Commission prior to the competition's application submission deadline. The number of units requested for each subsequent fiscal year shall be no more than 25% above any single highest year allotment for the proposed project to a maximum of 30 units. The 25% or 30-unit limit includes any units already allocated to the project in that fiscal year as a result of a prior fiscal year competition. ~~For Part~~ ***Subsection B4a and B4b above***, earlier phases of development must also be in compliance with the development schedule approved for the project ***except where the delay is due to extended city processing.***

5. Project Master Plan design is above average in terms of addressing internal street circulation and access requirements, appropriate transition of lot size and density within the development and with surrounding developments, and aggregation and use of common open space areas. **(minus one point, zero or one point)**

**Note:** Project Master Plan determined to be only satisfactory with respect to the above items will be awarded zero points. Project Master Plan determined to be of a poor design will receive minus one point under this criterion. A project will be awarded one point if no significant design flaws can be found, and the design gives strong consideration to the issues of circulation, access, density transitions, and the use of common open space. If a project master plan has two or more significant design flaws, it will be considered below average and one point

will be taken away. A design flaw would be something that, at the subdivision stage, staff would ask to be modified or not recommend for Planning Commission approval. Significant design flaws would basically require the redesign of the master plan. For scoring purposes, that portion of an ongoing project awarded a building allotment prior to October 1, 1999, shall not be considered within the Project Master Plan design, except where the inclusion of the earlier allocated phase(s) would result in a higher overall score. (Ord. 1575 N.S. § 4, 2002; Ord. 1517 N.S. § 4, 2001; Ord. 1486 N.S. §§ 5 & 6, 2000; Ord. 1438 N.S. §§ 2 & 3, 1999; Ord. 1404 N.S. § 5, 1998; Ord. 1346 N.S. §§ 3 & 4, 1997; Ord. 1228 N.S. § 4, 1995; Ord. 1179 N. S. § 8, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

**18.78.240 Public facilities.**

A. ~~Point Range and Policies.~~

_____ 9 _____	10 _____	High quality
_____ 7 _____	8 _____	Above average
_____ 5 _____	6 _____	Average
_____ 3 _____	4 _____	Below average
_____ 0 _____	2 _____	Poor quality

\_\_\_\_\_ 1. \_\_\_\_\_ "The provision of needed public facilities such as critical linkages in the major street system, or other vital public facilities.

..... **(10 points)"**

2. The public facilities which serve the Morgan Hill area can benefit by discriminate development which improves the existing systems. Many areas exist where improvements to the systems are needed. A proposed project should help alleviate the problem rather than aggravate it.

B. Standards and Criteria. **(Maximum ten points)**

1. A micro *or affordable project of 15 units or less project* will receive **(three points)** if it meets all standard requirements for design and construction of public facilities.

2. Installs public facilities of sufficient size to service the proposed development and future developments without the need to install supplemental facilities.

a. Grids water mains into the existing water system. **(two points)**

b. Drainage concept is consistent with the City's storm drain system. (e.g., the city's storm drain master plan, local area storm drain system). **(one point)**

c. Storm drain lines that are to be maintained by the city will be constructed entirely within the paved area of the street (curb to curb), or in a location acceptable to the Director of Public Works. **(one point)**

d. Storm drainage from the development is accommodated without the need for an on-site detention pond or open space retention areas, unless the on-site detention facility is appropriately located and sized so as to serve or coordinate with future area-wide or adjacent development. **(up to two points)**

**Note 1.** Applicants providing an oversized pond must supply information specifying how the pond sizing will address the area need and how other projects will be connected to the detention pond. The extra capacity provided must be stated in terms of the land area it can serve in acres and cubic feet. *When the detention pond is not connected to other projects, the applicant must provide data satisfactory to the City's Public Works Department demonstrating the detention pond's benefit to other off-site projects. This shall be in the form of an*

***agreement letter included the application submittal. Over sizing must equal 50 percent of the project drainage area or 10 acres, whichever is greater, to receive maximum points***

**Note 2.** Applicants who use a regional detention facility, a detention pond from another development, or a Santa Clara Valley Water District facility must supply an authorization/approval letter with their application.

e. Applicant will contribute \$ ~~4000~~ **1100** per unit to the Local Drainage Non-AB1600 fund for off-site storm drainage improvements, in addition to payment of standard fees. **YES \_\_, or NO \_\_** (Contingent commitments will not receive points) **(one point)**

f. Provides public facility improvements on or adjacent to the project in excess of standard requirements, e.g., sewer, traffic control. **(maximum four points)**

**Note:** Under this criteria, the applicant needs to explain how and why the offered public improvements exceeds the city standards. Furthermore, the cost of the offered public improvements and dedication shall be equal to or greater than \$ ~~4000~~ **1100** per unit per point. Should the offered dedication and improvements be redundant to those offered under ~~5-a-e~~. **Section B.3 a thru c** of the Circulation Efficiency (**CE**) category, the value of the redundant improvements will be reduced by \$~~4000~~ **1100** per unit per point for each point awarded under ~~5 a-e~~. **Section B.3 a thru c** in the CE category. For example, if redundant improvements are valued at \$~~3000~~ **3300** per unit here, and 2 points were awarded for them in CE, then only 1 point would be awarded for them here. ***The improvements offered here and in the CE category also cannot be redundant of those improvements offered in Section B.3.a of the Schools category or B.5 of the Livable Communities Category.***

Emphasis will be placed on improvements on or adjacent to the project but consideration will also be given to projects that provide improvements within one mile beyond their project boundaries. **(one - four points)**

g. Applicant will contribute \$~~4000~~ **1100** per unit to the Public Facilities Non-AB1600 fund. **YES \_\_, or NO \_\_** (Contingent commitments will not receive point) **(one point)**

**Note:** Proposed developments must be assigned a minimum passing score of five points under this category in order to qualify for building allotments.

Scoring for a multi-year/phased developments includes recognition all public facility improvements committed to be installed in the initial or previous phases of development ( project completed to date vis-à-vis improvements completed to date) . The initial or previous phase of development must also be in compliance with the development schedule approved for the project. Ord. 1228 N.S. § 5, 1995; Ord. 1179 N.S. § 9, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1049 N.S. § 1, 1991; Ord. 1034 N.S. § 1 (part), 1991)

**18.78.250 Parks and paths.**

**A. ~~Point Range and Policies.~~**

<del>9</del>	<del>10</del>	<del>High quality</del>
<del>7</del>	<del>8</del>	<del>Above average</del>
<del>5</del>	<del>6</del>	<del>Average</del>
<del>3</del>	<del>4</del>	<del>Below average</del>
<del>0</del>	<del>2</del>	<del>Poor quality</del>

~~1.~~ "Provision of parks, foot or bicycle paths, equestrian trails or pathways.

..... **(10 points)"**

~~2 I.~~ The Morgan Hill area has many natural amenities that should be made accessible to its residents. Access should be made readily available by using a variety of methods, including foot and bicycle paths, and equestrian trails. By providing the opportunities to experience the areas natural amenities, a healthier attitude towards caring for and preserving the environment will be encouraged.

**B. Standards and Criteria.**

1. In lieu of dedicating land, projects of 24 units or less which are not providing parks can pay a fee to the city equal to the value of the land prescribed for dedication. The amount of park land dedication or in lieu fee must be consistent with the requirements contained in Chapter 17.28 of this code. For the land dedication to apply, the property must be deeded to the City for public park purposes. Not applicable to passive open space or landscape buffer areas deeded to a homeowners association. **(four points** for projects of 24 units or less which are **not** providing parks)

2. Provides privately owned and maintained on-site recreational amenities which are of greater value and utility from the following list. Projects of 15-24 units may select from any category of amenities to count toward the score. Projects of 25-49 units will receive credit for a maximum of one amenity from the one point category list. To achieve maximum points, projects of 25-49 units must select additional amenities from either the two, three, or four point amenity categories. Projects of 50 units or more will only receive credit for amenities provided from the two point or higher point category lists.**(up to four points)**

### Site Recreation Amenities

<p><b><u>One point amenities:</u></b>  Shuffleboard  Horseshoes  Bowling green  Open space turf areas  Cabana or Shade trellis area  <del>Tree Grove</del>  <i>Passive recreation area and/or gardens</i>  Passive water feature (e.g. fountain)  Picnic/barbeque area</p>	<p><b><u>Three point amenities:</u></b>  Softball Field  Sports Court  Restroom area  ½ scale Soccer Field  Tot lots (age appropriate play equipment/minimum 3 activities)  Basketball Court ( 2 hoops)  Child wading pool</p>
<p><b><u>Two point amenities:</u></b>  Volleyball court  Outdoor racquetball/handball tilt-up wall  Water feature (pond, creek area)  Sauna  <i>Tree Grove as approved by the City's Architectural Review Board</i>  Community garden plots with water service  ½ court basketball (one hoop)  <del>Passive recreation area and/or gardens</del>  Bridle paths  <i>Bocce Ball</i>  Putting Green</p>	<p><b><u>Four point amenities:</u></b>  Child Care Facility  Swimming Pool  Tennis Court  Recreation Hall  Exercise Room  Indoor racquet sports court  Par 3 course and/or pitch and putt golf course</p>

Points will also be awarded for any proposed amenity found by the Planning Commission to provide recreation or meet the needs of the project residents to a level similar to provided by the above. Point values in the above chart are based on a 50 unit project. For projects of 51 to 100 units, divide the above values by two. For projects of 101 - 150, divide the above point values by three, etc.

3. Provides Class I bicycle pathways or equestrian trails along the project frontage in accordance with the overall community-wide and/or county-wide bicycle master plans. In areas where a Class I bike path is not required, the project provides necessary street improvements and striping for Class II bike lanes. The project must provide at least one quarter mile of Class II bike lane improvements for each 10 dwelling units within the project. **(one point)**

4. Proposed project will contribute toward the creation of a neighborhood park by providing a coordinated development plan which locates on-site parks and other permanent open space areas so as to allow expansion of these areas into adjoining future developments. A

conceptual plan showing how the future park expansion may be implemented must be included in the project application. The conceptual plan shall identify the park area, list the number of amenities and show the layout of the amenities in the proposed park. Where necessary or appropriate, the plan should also allow these areas to be jointly utilized for storm water detention serving the proposed project and future area-wide development. **(two points)**

5. In addition to payment of standard park fees, applicant will pay the lesser of double the required in lieu park fees or ~~\$1000~~ **1100** per point up to \$ ~~3000~~ **3300** per unit. **(up to three points) or**

6. Applicant (projects of 24 units or less who do not provide a park) will pay the lesser of triple the required in lieu park fees or ~~\$1000~~ **1100** per point up to \$~~6,000~~ **6600** per unit. **(up to six points)**

7. Public or private parks provided by the project exceed the dedicated land requirements stated in Chapter 17.28 of the Morgan Hill Municipal Code. **(one point** if exceed the requirement by 20%, **two points** if exceed by 30%, or **three points** if exceed by 40%, or **four points** if exceeds by 50%).

**Note:** The number of recreational amenities required pursuant to Section 18.18.060 shall be based on the total number of dwelling units within the project, including secondary dwelling units as defined in Section 18.04.164 of this title.

Scoring for a multi-year/phased development includes recognition all recreational amenities provided in the initial or previous phases of development (amenities provided to date vis-à-vis project completed to date). The initial phase of development must also be in compliance with the development schedule approved for the project. (Ord. 1575 N.S. § 8, 2002; Ord. 1517 N.S. §§ 6, 7 & 8, 2001; Ord. 1486 N.S. §§ 7 & 8, 2000; Ord. 1438 N.S. §§ 5 & 6, 1999; Ord. 1404 N.S. § 6, 1998; Ord. 1346 N.S. § 6, 1997; Ord. 1228 N.S. § 6, 1995; Ord. 1179 N.S. § 10, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

**18.78.260 Housing needs.**

**A. ~~Point Range and Policies.~~**

<del>_____</del> 13 <del>_____</del> 15	<del>High quality</del>
<del>_____</del> 10 <del>_____</del> 12	<del>Above average</del>
<del>_____</del> 7 <del>_____</del> 9	<del>Average</del>
<del>_____</del> 4 <del>_____</del> 6	<del>Below average</del>
<del>_____</del> 0 <del>_____</del> 3	<del>Poor quality</del>

~~\_\_\_\_\_~~ 1. "Provision of units to meet the city's need for low and moderate income and elderly housing and the extent to which such provision meets the goals of the housing element of the general plan, including the distribution of housing types to provide neighborhoods of ethnic and economic diversity.

..... **(15 points)"**

2. The city has an obligation to provide adequate housing for all segments of the population in a variety of lot sizes and dwelling types. It must do this in a fashion which creates diversified neighborhood environments and income groups, avoiding concentrations of any single income group in one particular residential neighborhood. A neighborhood mix of ethnic and economic diversity, as required by the housing element of the general plan will therefore be encouraged.

**B. Standards and Criteria.**

1. Provides affordable housing units for households ranging from very low to moderate income. Most units sold or rented at below market rates will receive increased density.

2. ~~Over and above the BMR units committed in this section, the project provides an additional 10% detached units in an R-2 project or an additional 10% attached units in an R-1 project. (Two points) OR~~

The project provides an additional 10 percent of its units as moderate rate homes. These units would not participate in the City's BMR program but would be in addition to the project's BMR commitment. The final sales price (at close of escrow) for the units will be based on HUD income limits for a family of 4 at the closing date. **(two points)**

~~Projects that have both R-2 and R-1 zoning designations can receive **one point** for providing an additional 10% detached units in the R-2 project area and/or **one point** for providing an additional 10% attached units in an R-1 portion of the project.~~

3. The project will receive ~~an average score~~ **seven six points** if it chooses to pay the standard housing mitigation fee computed at ten percent of the total project.

Projects are also eligible to receive points in this category based on the percent and level of affordability of below market rate units built within the project. When in the process of



determining the number of below market rate units required, there occurs a fraction of a unit, any fraction less than .5 shall be paid as a corresponding fraction or percentage of the per unit cost of the standard housing mitigation fee. In phased developments, developer may carry the fractional share forward into succeeding phases until the fraction reaches .5 or higher. Any fraction of .5 or greater shall be deemed a requirement for one additional below market rate unit. The developer however, may continue to carry the partial credit forward into the next phase(s) of the overall development. Refer to the following charts to compute points.

4. **Affordable Units For Sale:**

P o i n t s	10% or Greater BMR Commitment		5% BMR Commitment		Allowable Density Bonus
	Percentage of BMR units  LOW	Percentage of BMR units  MEDIAN	Percentage of BMR units  LOW	Percentage of BMR units  MEDIAN	
15*					
13	5	8			15%
<del>13-12</del>	8	3			12%
<del>13-12</del>	10				10%
<del>9</del>	<del>5</del>	<del>5</del>			<del>7%</del>
<del>5</del>	0	10	<del>5</del>	0	4%
<del>3</del>			0	<del>5</del>	<del>1%</del>
<del>7</del>	Pay mitigation fee _____				0
0	No mitigation _____				

\* *Applicable to 100 percent affordable project.*

**Affordable Units For Rent:**

*Applicable to 100 percent rental or non profit agency sponsored project*

P o i n t s	10% BMR Commitment		5% BMR Commitment		Allowable Density Bonus
	Percentage of BMR units	Percentage of BMR units	Percentage of BMR units	Percentage of BMR units	
	VERY LOW	LOW	VERY LOW	LOW	
15	10	0			10%
11	5	5			7%
7	0	10	5	0	4%
3			0	5	1%
7	Pay mitigation fee _____				0
0	No mitigation _____				

5. A project may also be awarded 13 points if at least 10 percent of the dwellings are affordable at below market rates and the BMR units are constructed in a joint venture with a non profit builder. The following criteria shall apply to the joint venture development:

a. A letter of intent signed by both parties must be included with the RDCS application.

b. The homes are to be built by the nonprofit agency through a self help building program or other applicable program approved by the City.

c. The project must provide an area for a minimum of 8 BMR units as part of the joint venture agreement. If 10 percent of the project is less than 8 dwelling units, allocations above 10 percent of the project may be drawn from the affordable allotment set-aside if available, to achieve the 8 unit minimum.

d. The price range and target income of the buyers shall *be* determined and approved by the City and non profit agency prior to the RDCS application.

e. The site and architectural plans for the affordable units shall be shown on the plans and shall be considered part of the market rate application.

**Note:** If the applicant and non profit agency are unable to obtain the necessary funding, allotments, or encounter other obstacles and are unable to produce the affordable housing through the joint venture agreement; then the applicant will be required to choose one of the

other options to achieve 13 points under criteria B4 in this category. Any unused affordable building allotment transfer shall be returned to the affordable allotment set-aside category.

6. A Micro, Small, or any project having all lots in excess of 20,000 square feet, will receive ~~seven~~ **six points** if it chooses to pay double the standard housing mitigation fee computed at ten percent of the total project *(including replacement units)*. (Ord. 1575 N.S. §§ 9, 10 & 11, 2002; Ord. 1517 N.S. §§ 9 & 10, 2001; Ord. N.S. 1486 § 9, 2000; Ord. 1438 N.S. § 7, 1999; Ord. 1404 N.S. § 7, 1998; Ord. 1346 N.S. §§ 7 & 8, 1997; Ord. 1323 N.S. § 38, 1997; Ord. 1228 N.S. § 7, 1995; Ord. 1179 N.S. § 11, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

**18.78.270 Housing types.**

**A. ~~Point Range and Policies.~~**

_____ 13 _____	_____ 15 _____	High quality
_____ 10 _____	_____ 12 _____	Above average
_____ 7 _____	_____ 9 _____	Average
_____ 4 _____	_____ 6 _____	Below average
_____ 0 _____	_____ 3 _____	Poor quality

\_\_\_\_\_ 1. \_\_\_\_\_ "The extent to which the proposed development itself consists of a diversity of housing types to meet the goals of the housing element of the general plan.

..... **(15 points)"**

*1 2.* In order to develop residential neighborhoods which have a mix of housing types, new residential construction should consider the existing composition of the neighborhood and plan its housing design accordingly.

**B. Standards and Criteria**

**1. Provides for a diversity of housing types:**

**a.** Utilizes a mix of the various housing categories to provide housing diversity as follows by housing type\* (a maximum of **seven points, two points** per housing type, excepting the 15% single story housing type which is worth **three points**).

**Note.** Rental projects will receive **seven points**. Owner occupied single-family attached and multi-family R2 and R3 zoned projects will receive **five points** for one housing type, and **seven points** for two or more housing types.

\* Housing Types are defined as follows:

- Single-family detached
- Single-family attached (includes one and two unit condominium buildings).
- Multi-family rental or stacked condominiums or condominium units in buildings containing three or more units.
- Custom lots
- Mobile homes
- Secondary dwelling units
- Single story dwelling units (must represent at least 15% of the total dwelling units)

For the above determination, the number of units for a particular housing type when divided by the total number of units in the project, must represent at least ten percent of the total number of housing units in the development (fifteen percent for single story units). The ten percent requirement would be in addition to any housing type used for below market rate (BMR) units. ***Single story BMR units may be counted toward the fifteen percent overall requirement for single story units.***

**Note:** The percentage requirements stated above are absolute figures. Rounding to the nearest whole number is not permitted. ***A minimum of 10 percent (fifteen for single story units) is required, i.e. rounding up to get 10 percent is not allowed.***

***b. Over and above the BMR units committed in this section, the project provides an additional 10% detached units in an R-2 project, an additional 10% attached units in an R-1 project or an additional 10% ownership (e.g., townhouse units) in an R-3 project. (two points maximum)***

~~b. ————— The project provides an additional 10 percent of its units as moderate rate homes. These units would not participate in the City's BMR program but would be in addition to the project's BMR commitment. The final sales price (at close of escrow) for the units will be based on HUD income limits for a family of 4 at the closing date. (two points)~~

***Projects that have both R-2 and R-1 zoning designations can receive one point for providing an additional 10% detached units in the R-2 project area and/or one point for providing an additional 10% attached units in an R-1 portion of the project.***

**Note:** The 10 percent determination will be based on the overall project. For ongoing projects, this ~~criteria~~ ***criterion*** will be applied to the remaining phases only. The percentage requirement stated above shall be an absolute figure, rounding to the nearest whole number ***is not permitted. A minimum of 10 percent is required, i.e. rounding up to get 10 percent is not allowed.*** This criterion only applies to for sale projects.

2. Provides for an economic diversity within the project.

a. The proposed project would augment the existing housing stock by providing housing which would be affordable under the income categories described below. A maximum of two points (or four points if for rent) may be awarded to projects which reserve a portion of the total units (see table below) as affordable to very low income households within 100 percent rental projects or low income (ownership units) in other projects.

**Note.** A Micro, Small, or any project where all lots are in excess of 20,000 square feet, will receive **two points** if it chooses to pay the standard housing mitigation fee computed at ten percent of the total project (*including replacement units*), or **four points** if it chooses to pay double the housing mitigation fee.

### For Sale Projects

	10% or greater BMR Commitment	5% BMR Commitment		
P o i n t s	Provides for 10%+ affordable units  LOW	Provides for 10%+ affordable units  MEDIAN	Provides for 5% affordable units  LOW	Provides for 5% affordable units  MEDIAN
4*				
2	5	8		
2 1.5	8	3		
2 1.5	10			
1	5	5		

\* *Applicable to 100 percent affordable projects.*

**Note:** If the applicant and non profit agency are unable to obtain the necessary funding, allotments, or encounter other obstacles and are unable to produce the affordable housing through the joint venture agreement; then the applicant will be required to choose one of the other options to achieve the 2 points in this (for sale) category. Any unused affordable building allotment transfer shall be returned to the affordable allotment set-aside category.

### For Rent Projects

	10% BMR Commitment		5% BMR Commitment	
P o i n t s	Provides for 10% affordable units  VERY LOW/LOW	Provides for 10% affordable units  LOW	Provides for 5% affordable units  VERY LOW/LOW	Provides for 5% affordable units  LOW
4	10	0		
3	5	5		
2	0	10	5	0
1			0	5

3. For single family/ownership projects, the proposed project provides for a variation of housing sizes within the project. The proposed project provides at least a fifty percent variation in house size from the smallest to largest floor plan and each house size represents at least ten percent of the total units (**four points**). For purposes of making the above determination, there must be at least three (3) different floor plans and a one hundred twenty square foot difference between the size of each floor plan where the floor plans do not exceed 1,500 square feet (less than one hundred twenty square feet difference will be aggregated as one floor plan). Where the floor plans exceed 1,500 square feet, there must be a two hundred square foot difference between the size of each floor plan (less than two hundred square feet difference will be aggregated as one floor plan).

For multi-family projects, *and 100% affordable non profit agency sponsored ownership projects*, the variation will be based on number of bedrooms. A project which provides one bedroom units only, will receive **one point**. A project which provides a mix of one and two bedroom units or two bedroom units only, will receive **two points**. A project which provides dwelling units with a mix of one, two and three bedroom units or dwelling units with three or more bedrooms only within the development, will receive **four points**. Each bedroom category must represent at least ten percent of the total units. *Affordable ownership projects must provide a minimum of three floor plans to be eligible for points under this criterion.*

**Note:** BMR units may not be used when determining housing size variations

**18.78.280      Quality of construction standards.**

**A.      ~~Point Range and Policies.~~**

_____ 13 _____	_____ 15 _____	High quality
_____ 10 _____	_____ 12 _____	Above average
_____ 7 _____	_____ 9 _____	Average
_____ 4 _____	_____ 6 _____	Below average
_____ 0 _____	_____ 3 _____	Poor quality

\_\_\_\_\_ 1. \_\_\_\_\_ "Architectural design quality as indicated by the quality of construction and by the architectural elevations of the proposed buildings, judged in terms of architectural style, size, and height.

..... **(15 points)"**

2.      The proposed project should create buildings that are responsive to the needs of its users and the environment, while also accomplishing it in an appealing and attractive manner. The overall project design should be compatible and harmonious with existing adjacent residential neighborhoods and land uses, while still maintaining its own special character.

**B.      Standards and Criteria.**

1.      Provides harmonious use of exterior building materials and varying front elevations with low repeat factors. A reverse floor plan does not count as a separate elevation. An elevation to be considered different must include significant modifications to the exterior appearance of the structure.

a.      Floor plan & elevation repeats 0 -3.5 times: **one point**

For single family detached buildings, repeat factor is the total number of building lots divided by: the number of floor plans multiplied by the number of alternate elevations for each plan (i.e.: repeat factor = number of building lots/(floor plans)\*elevations).

For single-family attached or multi-family buildings, repeat factor is the number of structures divided by: the number of different footprints times the number of alternate elevations for each footprint (must have a minimum of two elevations within the project).

2.      Uses design and construction that conserve resources:

a.      Provides for energy conservation through the use of energy-efficient building techniques, materials, and appliances, such that the buildings consume less energy than allowed by California's Title 24 Building Energy Efficiency Standards, as documented in the energy



compliance reports submitted at the time of application for building permits. **(Maximum four points will be assigned under this criteria)**

- i. Uses EPA “Energy Star” labeled windows with low-e coatings and vinyl or metal frames, and includes installation of a high efficiency gas furnace of 90 percent efficiency rating or greater in all dwelling units. Applicant must specify how the 15 percent reduction in energy usage will be achieved. **(two points)**
  - ii. Provides two separately zoned high-efficiency heating systems in units over 3000 square feet, and units less than 3000 square feet whose floor plans allow effective dual-zoning. For maximum points, at least 60 percent of the dwelling units in the project must be dual-zoned and all units must include the installation of high efficiency gas furnaces with 90 percent efficiency rating or greater. **(up to two points)**
  - iii. Installation of air conditioning units with high efficiency condensing unit with a SEER rating of 12 or higher. Must be installed in more than 60 percent of the dwelling units in the project. **(one point)**
  - iv. Installation of a high efficiency gas furnace with an efficiency rating of 90 percent or greater, in all units. Applicable only to projects that do not provide for a reduction in energy usage below Title 24 standards as specified in B3a(i) or the separately zoned heating systems as specified in B3a(ii) above. **(one point)**
  - v. Homes include solar panels for power generation and/or alternate energy sources, such as solar hot water, solar space heating or other energy saving methods not included elsewhere in the category. **(up to two points)**
- b. Provides for household water conservation through innovative building techniques that result in reduced water waste, and which exceed current city and state standards. For example, recirculating hot water system with demand pumping, or other water saving plumbing systems or features. Applicant must be specific in describing how the proposed system exceeds code requirements. Note: Not applicable to water conserving landscape irrigation systems such as sprinkler stations, timers or water saving sprinklers, etc. See scoring under Landscaping Category **(up to one point)**
3. Uses materials and construction techniques that exceed current building requirements of the Uniform Building Code adopted by the city as follows:
- a. Installation of cast-iron drainage pipe and piping insulation between floors for sound reduction of plumbing, and installation of future ready wiring concepts such as home running phone lines from all habitable rooms directly to main phone box rather than looping using RJ6 for television/video and high speed computer access, and CAT5R or equivalent for telephone lines. **(one point)**

b. Class A roof covering such as light weight concrete tile, architectural grade composition shingle or better and uses other materials and construction techniques that exceed current requirements, including, but not limited to glued and screwed subfloors, insulation of interior walls for sound, TJI floor joists, and pre-plumb gas lines to dryer along with 220 volt outlet. Not applicable to foundation designs. Applicants must specify how the construction techniques would exceed code requirements **(one point)**

Applicant must be specific in describing how the proposed materials and construction exceed code.

4. Provides architectural variation and differentiation as follows:
  - a. Uses porches, balconies, or multi-unit courtyards for any area viewed from the public right of way on at least 25% of units to promote a neighborhood feel **(two points)**
  - b. Uses at least two different roof lines and two different pitches throughout the project, i.e. gable, hipped, dormers, Mansard, etc. **(one point)**
  - c. Uses architecture and profiles and massing that conforms and works with the existing surrounding neighborhoods. Applicable only where a project adjoins an existing neighborhood on at least one side or twenty-five percent of the project's frontage. **(one point)**
  - d. Provides a consistent level of architectural relief and detailing on all four building elevations. Where two story rear and or side yard building elevations occur, architectural relief shall include some third dimensional design element such as bay windows, balconies, covered porches, decorative trellis, etc. In addition, each standard trim and base color must represent no more than 15% (project size permitting) of the project. **(up to two points)**
5. ~~Proposed project phase(s) are judged by the Planning Commission to be superior with respect to overall project excellence.~~ ***Applicant has an agreement letter on file with a qualified residential home builder prior to application filing. (one point) Note: A change to a different builder subsequent to the award of a building allotment shall result in a loss of this point.***

***A qualified homebuilder means a builder with experience completing projects with the same or similar housing type and of similar size to project application.***

~~The determination of project excellence will include input from the Building Division regarding the performance of the developer during any previous building permit processes. The timeliness and accuracy of the application submittal by the developer for any previous project will be an important consideration. Negative performance factors include more than 2 plan checks and/or projects which submit for building permits prior to ARB approval and prior to application for Final Map approval. No recommendation will be provided for developers who have not previously built in the City. (Ord. 1575 N.S. §§§§§ 14, 15, 16, 17 & 18, 2002; Ord. 1517 N.S. §§ 13 & 14 Ord. 1486 N.S. § 11, 2000; Ord. 1438 N.S. § 10, 1999; Ord. 1404 N.S. § 9,~~

1998; Ord. 1346 N.S. § 12, 1997; Ord. 1228 N.S. § 9, 1995; Ord. 1124 N.S. § 1 (part), 1993;  
Ord. 1034 N.S. § 1 (part), 1991)

**18.78.290 Lot layout and orientation.**

**A. ~~Point Range and Policies.~~**

<del>_____</del>	<del>13</del>	<del>_____</del>	<del>15</del>	<del>High quality</del>
<del>_____</del>	<del>10</del>	<del>_____</del>	<del>12</del>	<del>Above average</del>
<del>_____</del>	<del>7</del>	<del>_____</del>	<del>9</del>	<del>Average</del>
<del>_____</del>	<del>4</del>	<del>_____</del>	<del>6</del>	<del>Below average</del>
<del>_____</del>	<del>0</del>	<del>_____</del>	<del>3</del>	<del>Poor quality</del>

~~\_\_\_\_\_~~ 1. "Site design quality as indicated by lot layout, orientation of the units on the lots, and similar site design consideration.

..... **(15 points)"**

2 I. The overall project's site design quality is largely dependent upon the layout of the individual lots. Variations in lot sizes and configurations must take place to accommodate changes in natural terrain and street design, although this is not to be construed as meaning that areas of consistent terrain need not have lot variations. The variations in lot size, shape, and layout would encourage a corresponding variation in house designs and orientations. Site design will incorporate the utilization of the sun and wind to the greatest extent possible for heating and cooling purposes.

**B. Standards and Criteria.**

1. Provides good site design considerations in all lot layouts.

a. In context of the overall project, avoids excessively deep or narrow lots. The project also must provide side yards at least 20 percent in excess of the minimum required to avoid crowding and to enhance spatial relationships. **(one point)**

b. Provides building separations in apartment or condominium developments that are at least 20 percent in excess of minimum code requirements. **(one point)**

c. Avoids excessive use of sharp angled lots which waste land and constitute poor building sites. **(one point)**

d. Avoids creating lots which require driveways greater than 150 feet in length for access. **(one point)**

e. A sufficient transition in lot sizes, or building sizes in R-3 developments, is proposed in the site plan design to allow compatibility between existing and proposed neighborhoods. **(one point)**

f. Over-all excellence of lot layout. Layouts deemed to be average will receive **zero points**, above average layouts will receive **one point**, and superior layouts will receive **two points**.

For scoring purposes points will be assigned as follows:

Average Project: A project requiring 2 or more major design changes, or which has 4 or more minor problems. **(zero points)**

Above Average Project: A project requiring 1 major design change, or which has 3 minor problems. **(one point)**

Superior Project: A project requiring no major changes and which has 2 or less minor problems. **(two points)**

This criterion shall not apply to that portion of the project awarded a building allotment prior to October 1, 1999, except where the inclusion of the earlier allocated phase(s) would result in a higher score.

2. Provides street design which complements lot layout and building orientation:
  - a. Locates streets and arranges units to provide park/open space area that is aggregated into large meaningful area(s) that are conveniently located within the development. **(one point)**
  - b. Locates streets, design lots, and arranges units to enhance neighborhood security by arranging a minimum of 75 percent of the units so that entrances are visible from the public right of way or private circulation areas. **(one point)**
3. Provides a variety of setbacks which complements the overall site design.
  - a. A minimum five-foot front setback variation is provided between adjoining units for single-family dwellings, and four-foot front setback variation is provided between adjoining buildings for multi-family developments. **(one point)**
  - b. A minimum five-foot rear setback variation for single-family dwellings, and four-foot rear setback variation for multi-family dwellings is provided between adjoining units. **(one point)**
  - c. The proposed project provides at least a four foot variation in standard lot widths (excluding cul-de-sac lots) and each lot width represents at least ten percent of the total lots. For purposes of making the above determination, there must be at least three different standard lot widths and at least a four foot difference in the width of each standard lot. **(one point)**
  - d. Uses garage placement to provide lot variation. At least 25% of Units have side-loading, detached, rear garages, or two car garages with tandem parking space to accommodate a third vehicle inside the garage. ***(one point, when 25% of the units have garage orientation as***

***stated above; two points when 50% of the units have garage orientation as stated above)*** ~~Note:~~  
~~No more than 50 percent of the garages within a project may be of this type (with tandem parking).~~ Multi-family developments may satisfy this criteria by locating garages, carports, and parking spaces at the side or rear of buildings at locations not visible from the public right-of-way. ***(up to two points)***

4. Uses lot layout and design techniques that reduce noise. Such techniques where appropriate include increased setbacks, significant landscape buffer areas, sound insulation board in the building construction, placement of air conditioning units away from property lines and side yard areas to minimize noise impacts to adjoining dwellings, etc. ***(up to two points)***

(Ord. 1575 N.S. §§ 19 & 20, 2002; Ord. 1517 N.S. §§ 15 & 16, 2001; Ord. 1486 N.S. § 12, 2000; Ord. 1438 N.S. § 11, 1999; Ord 1404 N.S. §§ 10 & 11, 1998; Ord. 1346 N.S. § 13, 1997; Ord. 1228 N.S. § 10, 1995; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

### 18.78.300 Circulation efficiency

#### A. ~~Point Range and Policies.~~

<del>_____</del> 13 <del>_____</del>	<del>_____</del> 15 <del>_____</del>	High quality
<del>_____</del> 10 <del>_____</del>	<del>_____</del> 12 <del>_____</del>	Above average
<del>_____</del> 7 <del>_____</del>	<del>_____</del> 9 <del>_____</del>	Average
<del>_____</del> 4 <del>_____</del>	<del>_____</del> 6 <del>_____</del>	Below average
<del>_____</del> 0 <del>_____</del>	<del>_____</del> 3 <del>_____</del>	Poor quality

~~\_\_\_\_\_~~ 1. ~~"Site and architectural design quality as indicated by the arrangement of the site for efficiency of circulation, on-site and off-site traffic safety and privacy.~~

~~.....~~ **(15 points)"**

~~2 I.~~ An efficient circulation system is one which accommodates various regular transportation modes (walking, biking, private automobile and public transit) in a safe and unified manner. Future residential areas should incorporate design elements whenever possible to make these forms of transportation more convenient and safe for the users.

#### B. Standards and Criteria.

**Note:** Project scoring in this section shall be based on the overall project master plan and shall include improvements completed in previous phases of the same development.

~~1. \_\_\_\_\_ Provides low maintenance on-site walkways and on-site bike paths throughout the development to maximize their use and promote safety. This criteria does not apply to city standard sidewalks, or where the provided path is adjacent to city standard sidewalks. (one point)~~

~~\_\_\_\_\_ 2. \_\_\_\_\_ Encourages the use of public transportation in residential areas by constructing bus shelters, benches, reinforced street sections or bus pullout areas and these improvements are located on an approved or planned Valley Transportation Agency (VTA) transit route and accepted by the VTA for maintenance. A letter from the VTA shall be submitted confirming VTA's acceptance and maintenance of the proposed bus stop. For planned bus routes, the VTA letter shall provide confirmation of the future bus route extension. This criterion may apply to a bus stop constructed in the initial or previous phase that would serve subsequent phases of the same development. The subsequent phase must be located within a quarter mile of the bus stop. (one point)~~

~~3 I.~~ Streets, access ways and parking are designed for safe and efficient circulation. **(Maximum nine points will be assigned under this criteria)**

a. Local streets or access-ways interior to the project are designed to discourage fast traffic using curvilinear roads or traffic control devices. **(one point)**

b. Provides for the future extension of streets or drive aisles for proper access or circulation to adjacent properties by providing one or more stubs for the future extension of

streets. The future street extension(s) must be consistent with the General Plan or other adopted circulation plans. **(up to two points)**

c. Interior streets and/or drive aisles are designed to meet all city safety and parking standards and allow for a looping pattern of circulation. **(one point)**

d. Eliminates existing stub or substandard streets. Frontage improvements will not apply to this criteria unless the improvements occur along an arterial or the project completes full width street improvements along the project frontage. **(up to two points)**

e. Avoids short blocks between existing and/or proposed streets. A short block is considered to be less than two hundred ~~sixty~~ **fifty two** feet from centerline to centerline of streets. Within a project, an entry aisle less than two hundred ~~sixty~~ **fifty two** feet from the entry is acceptable. This criteria is not applicable where a driveway and/or drive aisles and curb cuts are used to provide access to the entire project site. **(one point)**

f. Provides a minimum 20-foot clear view back-out distance between enclosed garage space and drive aisle. **(one point)**

g. When possible, access to the project is provided from at least two separate streets. If access to separate streets is not possible, there must be a minimum of two hundred feet between access points to the project on the same street. **(one point)**

h. Provides appropriate landscape islands and entry monuments/gateway features. **(one point)**

i. Project provides circulation to facilitate emergency response and patrol as determined by the fire chief and police chief. Off-set intersections are avoided. The project shall include specific information to provide for turnarounds and secondary access proposal for phased projects. **(one point)**

**4 2.** Promotes the privacy of residential neighborhoods.

a. Internal project circulation is designed for use primarily by local residents. **(one point)**

b. Street layouts are designed to avoid the creation of undesirable situations such as double frontages, utility easements in rear or side yards of private property, or developable land locked property. **(one point)**

**5 3.** Provides for dedication and improvement of extensions to existing streets outside of the project boundaries. The cost of the offered dedication and public improvements shall be equal to or greater than ~~\$1000~~ **1100** per unit per point. Should the offered dedication and improvements be redundant to those made under 1f. of the Public Facilities (**PF**) section, points will be awarded here first and then any excess applied to the PF section. For example, if \$1500 per unit of improvements were recorded in this section and in PF, 1 point would be awarded here and ~~\$500~~ **400** per unit would be available to add to any non-redundant improvements made under *the PF category, under Section B.3.a of the Schools category or under B.5 of the Livable Communities category.*



Projects which offer to complete adjacent or nearby off-site public facility improvements which were committed to be installed by another project under a previously approved application will not receive points for the same commitment. **(Maximum of two points)**

a. Provides for dedication of extensions to existing streets outside of the project boundaries. **(one point)**

b. Provides improvements for dedicated extensions of existing streets outside of the project boundaries. **(one point)**

c. Provides dedication and improvement of street extensions for existing streets outside of the project boundaries. **(two points)**

**4. *In R-3 and higher density mixed use projects, the proposed development minimizes conflicting back out movements by using single loading streets or drive aisles to access individual parking spaces. (one point)***

**5. *In R-3 and higher density mixed use projects, interior parks and recreation amenities are located away from parking lots and circulation aisles. (one point)***

**Note:** For B3 *1* above, emphasis will be placed on improvements for dedicated extensions of existing streets within one mile beyond the project boundaries.

Proposed developments must be assigned a minimum passing score of seven points under this category in order to qualify for building allotments.

(Ord. 1575 N.S. § 21, 2002; Ord. 1517 N.S. § 17, 2001; Ord. 1486 N.S. §§ 13 & 14, 2000; Ord. 1438 N.S. § 12, 1999; Ord. 1346 N.S. § 14, 1997; Ord. 1228 N.S. § 11, 1995; Ord. 1179 N.S. § 14, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

## 18.78.310 Safety and Security

### A. ~~Point Range and Policies.~~

<del>_____</del> 9 <del>_____</del>	<del>_____</del> 10 <del>_____</del>	<del>High quality</del>
<del>_____</del> 7 <del>_____</del>	<del>_____</del> 8 <del>_____</del>	<del>Above average</del>
<del>_____</del> 5 <del>_____</del>	<del>_____</del> 6 <del>_____</del>	<del>Average</del>
<del>_____</del> 3 <del>_____</del>	<del>_____</del> 4 <del>_____</del>	<del>Below average</del>
<del>_____</del> 0 <del>_____</del>	<del>_____</del> 2 <del>_____</del>	<del>Poor quality</del>

~~\_\_\_\_\_~~ 1. ~~"Site and architectural design quality as indicated by the amount of private safety and security provided in the design of the individual structures.~~

~~..... (5 10 points)"~~

~~2 I.~~ Residential structures should create the feeling of comfort and peace of mind by using design and materials that increase safety and security. The lighting, glazing, and positioning of non-private or semi-private areas, and access areas must facilitate their natural surveillance by residents and formal authorities.

### B. Standards and Criteria.

1. Enhances safety and security ~~by providing at least two items from category I and two items from category II that are not already required according to the Uniform Fire: (one point total) as follows:~~

a. ~~Category I: Fire—Minimum two items. (½ point)~~

~~\_\_\_\_\_~~ i. ~~Provides fire escape ladders for upper floor bedrooms and~~

~~\_\_\_\_\_~~ ii. ~~Provide one mounted fire extinguisher (rated 2A10BC) for up to the first 1,500 square feet of floor space, plus one point and one additional extinguisher for each additional 1,500 square feet of floor space or fraction thereof. (1/2 point)~~

~~\_\_\_\_\_~~ b. ~~Provides a first aid kit with a poison control document to be installed in the kitchen area of the home. (1/2 point)~~

~~\_\_\_\_\_~~ c. Any other fire protection device or construction technique approved by the fire chief ~~not already required according to the Uniform Fire Code. ( ½ point).~~

~~\_\_\_\_\_~~ d. ~~Category II: Police—Minimum two items. (½ point)~~

~~\_\_\_\_\_~~ i. ~~Provide outdoor lighting to meet all police department specifications. ( ½ point)~~

~~\_\_\_\_\_~~ e. Install illuminated ~~or self-luminous~~ address numbers for each unit and painted ~~reflective~~ curb numbers where possible. ~~(one point)~~

~~\_\_\_\_\_~~ f. Any other intrusion protection device or construction technique approved by the police chief. ~~(1/2 point)~~

***Note: Application must stipulate that the reflective painted curb addresses will be maintained by a homeowners association. A Small or micro project will receive one point without the requirement for painted curb addresses.***

2. Use of noncombustible siding materials ~~on at least fifty percent of the units within the project. The noncombustible siding must be used on at least fifty percent on an individual unit. (one point, two points when above siding is used on at least seventy five percent of the siding of the unit)~~ in the following manner:

a. ***One point when noncombustible siding is used on at least 50 percent of the total units and on at least 50 percent of the siding of an individual unit, or;***

b. ***Two points when noncombustible siding is used on at least 50 percent of the total units and comprises at least 75 percent of the siding of an individual unit, or;***

c. ***Two points when noncombustible siding is used on at least 75 percent of the total units and comprises at least 50 percent of the siding of an individual unit.***

3. Installation of an intrusion, ~~and~~ fire alarm ***and heat detector*** system to be monitored by a central station, or to include auto dialer which meets city ordinance. For multi-family projects, points will be awarded for a fire alarm system without central monitoring, and NO intrusion system. ***(two points; three points when the developer includes a one year monitoring contract with the home purchase and commits to deliver to the homeowner a city specific responsible listing card that the City Police Department can keep on file )***

4. Provides residential fire sprinkler system according to NFPA Chapter 13D specifications. ***(three points)***

5. ~~Provide automatic earthquake shut-off valves for gas service. (one point)~~  
***Neighborhood Emergency Preparedness Program administered through a homeowners association or central property management. (one point)***

6. ***Developer to provide a hardwired carbon monoxide detection device or devices with battery backup. The installation of the devices are to be located per manufacturer's requirement with at least one detector per floor of the residence. (one point)***

7. ***The developer shall include provisions in the Covenants, Conditions and Restrictions (CC&R's) of the Homeowner's Association which directs a Board representative to the City of Morgan Hill Police Department's Community Service Officer to enact a neighborhood watch program to be established as part of the first phase of the development. For rental projects, neighborhood watch programs shall be administered through a central property management company. (one point, criterion does not apply to small or micro projects)***

NOTE: Proposed developments must be assigned a minimum passing score of ~~three~~ ***five*** points under this category in order to qualify for building allotments.

**18.78.320 Landscaping, screening and color.**

A. ~~Point Range and Policies:~~

<del>9</del>	<del>10</del>	<del>High quality</del>
<del>7</del>	<del>8</del>	<del>Above average</del>
<del>5</del>	<del>6</del>	<del>Average</del>
<del>3</del>	<del>4</del>	<del>Below average</del>
<del>0</del>	<del>2</del>	<del>Poor quality</del>

~~1.~~ "Site and architectural design quality as indicated by the amount and character of landscaping and screening and color of buildings.

..... **(10 points)"**

~~2. 1.~~ All trees, shrubs, ground cover, walls and fences, mounding, landscape furniture, paths, lighting, etc., should be compatible with the topography and other characteristics of the site, the character of adjacent quality landscaping, and the architectural features of adjacent structures. Efficiency in exterior design and landscaping is an important part of the character of a home. A gain can be made in terms of heating and cooling, noise abatement and pest control. The functions of plants should be the basis for their use in environmental design.

B. Standards and Criteria. **(Maximum ten points)**

(Note. Custom lots and custom lot developments may receive points in pertinent sections below where landscaping will be provided by the lot owner. This requires development agreement commitments being recorded against each such lot, including a statement that landscaping requirements must be in place or bonded prior to receiving City approval for occupancy.)

1. Uses landscaping techniques that enhance the quality of the site.

a. Applicant agrees to provide twenty-four inch box-size trees from a city approved list, with a minimum height of nine feet and a spread of three to four feet. The box-size trees will be provided within the development at a ratio of one box-size tree per ten trees provided with the landscape area to be installed by the developer. The one box size tree per ten trees calculation does not include street trees. **(one point)**

b. Provides sufficient planting around all necessary and appropriate group parking to achieve shading and visual screening as viewed from the public street. **(one point)**

c. Varied front yard landscaping plans are installed by the developer. ***For multi-family projects, this criterion shall apply to varied landscaping installed along the project frontage and for the landscaping installed in front of the buildings in the interior portions of the project. (one point)***

d. Deciduous trees will be planted along the south facing side of homes or buildings to conserve energy by giving shade in the summer and maximum solar gain in the winter. **(one point)**

e. All street trees are twenty-four inch box trees from the city approved list. (one tree per lot, two trees per corner lot = **one point**; two trees per lot, three trees per corner lot = **two points**)

2. Landscape planting and irrigation systems are designed to conserve water usage.

a. Drought tolerant grasses are used for lawn areas and no more than twenty-five percent of the landscape area is covered with lawn. The twenty-five percent lawn coverage calculation is exclusive of landscape area within parks. (~~one~~ **half point**)

b. Automatic irrigation systems utilize separate valves and circuits for trees; shrubs and ground covers; and lawn areas. Minimum of three separate valves required. A separate valve shall be provided for the following areas: front lawn, rear lawn, and for trees, shrubs and groundcover (combined) where viable. If trees, shrubs, and groundcover cannot be combined under 1 valve, a separate valve for trees shall be provided, resulting in a minimum of 4 separate valves required. Water conserving irrigation system is also used within the development, i.e., drip irrigation. (~~one~~ **half point**)

c. The landscape to be installed by the developer will include hardscape coverage such as decorative paving, wood decking, decorative stone and similar non-irrigated areas on at least fifteen percent of the landscape area. Pedestrian walkways across circulation aisles are not included in this item. (~~one~~ **half point**)

d. For at least 50% of all plant material, uses water conserving plants contained on the Selected Plant List, Appendix A of the City Water Conservation Landscape Guide. (~~one~~ **half point**)

e. *Uses a separate water source (e.g., well, import or recycled water) to irrigate common area landscape areas and front yard areas that are maintained by a homeowners association. (up to two points)*

f. *Project connects to an existing water supply separate from the City's water system (e.g., an off-site irrigation well) for landscape irrigation. Applies to small and micro projects only. (one point)*

3. Landscaping is installed on all areas visible from public and private rights-of-way. **(one point)**

(Ord. 1517 N.S. § 19, 2001; Ord. 1438 N.S. § 13, 1999; Ord. 1346 N.S. § 16, 1997; Ord. 1304 N.S. § 3, 1996; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

**18.78.330 Natural and environmental features.**

**A. ~~Point Range and Policies.~~**

<del>_____</del> 9 <del>_____</del> 10	<del>High quality</del>
<del>_____</del> 7 <del>_____</del> 8	<del>Above average</del>
<del>_____</del> 5 <del>_____</del> 6	<del>Average</del>
<del>_____</del> 3 <del>_____</del> 4	<del>Below average</del>
<del>_____</del> 0 <del>_____</del> 2	<del>Poor quality</del>

~~\_\_\_\_\_~~ 1. ~~"Site design quality in adapting the development to the setting, including the preservation of vegetation, trees, natural terrain, and other natural and environmental features.~~

~~..... (15 10 points)"~~

2. The proposed development should always adapt itself to the environment rather than vice-versa. The residences and supportive infrastructure shall be designed with nature in mind, by following the natural form of the land, preserving unique natural features and environmentally sensitive areas, arranging building sites around existing trees, and "blending in" the development to the surroundings.

3. A high quality project is one that uses what is available but also improves the total environment for the people who live within and nearby.

**B. Standards and Criteria.**

1. The proposed development utilizes environmental preservation techniques.

a. Foundation types are designed to minimize grading of the site *and road alignment follows and maintains existing ground elevation to the greatest extent possible*. Minimal grading is considered a fill or excavation of less than ~~three~~ *two* feet in depth (*three feet is acceptable for detention ponds*). (~~three~~ *one* point)

b. Restricts the amount of runoff caused by impervious surfaces and the covering of land area suitable for percolation where applicable. (*one point*)

c. ~~Road alignment follows and maintains the existing ground elevation to the greatest extent possible. For example, a change in ground elevation where it is not required.~~ (*one point*)

d. Each building site ~~is located considering the folds of the terrain,~~ preserves *significant* trees *as defined in Section 12.32.020G of the Morgan Hill Municipal Code*. (the number of trees preserved must be proportional to project size and the number of existing trees) ~~and/or rock outcroppings where applicable,~~ but also allows enough flexibility in the final location of the final house design to fit the house to individual trees and detailed grade characteristics. Scoring will be as follows:

i. Project does NOT preserve *significant* trees or locate sites as outlined. **(minus one point)**

ii. Project has no such trees ~~or terrain~~ to preserve. **(zero points)**

iii. Project has trees and/or terrain and DOES preserve them. **(up to two points)**

e. Considers, preserves or improves natural conditions on or adjacent to the site such as wildlife habitats, streams, *those watercourses the Santa Clara Valley Water District recognizes as* creeks (*such as* the Llagas, West Little Llagas, Fisher, and Coyote creeks) when appropriate and preserves riparian habitats in a natural state. Scoring will be as follows:

i. Project has such a site and does NOT preserve/improve it. **(minus one point)**

ii. Project has no such site. **(zero points)**

iii. Project has such a site and preserves and improves the natural conditions. **(up to two points)**

(Note: Only improvements made to an on-site area qualify for maximum points.)

2. The proposed development creates an environment that enhances the quality of life for the people who live in the development and the local neighborhood.

a. Uses design and layout techniques that give individuals maximum privacy within and outside the homes. Such techniques include the off set of windows between units, alternating outdoor patio areas and entrance and consideration of fence height in relation to grade changes. **(two one point)**

b. Uses various site development practices to protect existing open space, hillsides and agricultural land with maximum points awarded for the protection of areas external to the project. **(up to two points)**

c. Arranges buildings, access-ways and locates parking areas and open space to minimize the use of sound walls next to the freeway, *the railroad tracks*, arterial or collector streets. **(two points)**

3. Project reduces construction waste sent to landfill sites by agreeing to implement at least two of the following recycling methods during construction: **(one point)**

i. Dry wall is source separated and recycled;

ii. wood waste is source separated for recycling or composting;

iii. cardboard containers and boxes are source separated and recycled.

(Ord. 1517 N.S. § 20, 2001; Ord. 1438 N.S. § 14, 1999; Ord. 1404 N.S. § 12, 1998; Ord. 1346 N.S. §§ 17 & 18, 1997; Ord. 1228 N.S. § 13, 1995; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

**18.78.335 Livable Communities.**

A. "The extend to which the proposed development exhibits overall project excellence and/or incorporates or otherwise embodies the concept of Livable Communities, such as proximity to transit, pedestrian orientation, efficiency of street system, mixed use, infill and maximization of use of existing infrastructure.

..... (10 points)"

B. Standards and Criteria

1. Proposed project phase(s) are subjectively judged by the Planning Commission to be superior with respect to overall project excellence. **(two points when awarded by a super majority of the voting members, and or one point when awarded by a majority of the voting members of the Planning Commission)**

Note: The determination of project excellence will include input from the Building *and Planning* Divisions and *the Public Works Department* regarding the performance of the developer during any previous building permit processes. The timeliness and accuracy of the application submittal by the developer for any previous project will be an important consideration. Negative performance factors include more than two plan checks and/or projects which submit for building permits prior to ARB approval and prior to application for Final Map approval. No recommendation will be provided for developers who have not previously built in the City.

2. Provides low-maintenance on-site walkways and on-site bike paths throughout the development to maximize their use and promote safety. This criteria does not apply to city standard sidewalks, or where the provided path is adjacent to city standard sidewalks. **(one point)**

3. Encourages the use of public transportation in residential areas by constructing bus shelters, benches, reinforced street sections or bus pullout areas **and** these improvements are located on an approved or planned Valley Transportation Agency (VTA) transit route and accepted by the VTA for maintenance. A letter from the VTA shall be submitted confirming VTA's acceptance and maintenance of the proposed bus stop. For planned bus routes, the VTA letter shall provide confirmation of the future bus route extension. This criterion may apply to a bus stop constructed in the initial or previous phase that would serve subsequent phases of the same development. **(one point)**

4. Project is located within a quarter mile walking distance of the bus stop or other transit facility (the W. Main/Hale Park & Ride Facility, Caltrain Station or Route 68 regional



transit line). **(two points; one point if the project is within ½ mile walking distance of the above transit facilities or a ¼ mile of other approved bus routes)**

5. Provides access to stores, services, schools, employment areas by constructing sidewalks where it does not currently exist within a quarter mile of the development. The cost of the sidewalk improvements shall be equal to or greater than \$1100 per unit per point. A value greater than \$1100 per unit can be credited to other categories (Schools, Public Facilities or Circulation) **(one point)**

6. Creates a continuous building frontage along the streetscape with buildings fronting on public streets, and applies the Valley Transportation Authority's standards for walking distance to amenities such as stores, services, schools and major employment centers. **(one point)**

7. Project is designed as "vertical mixed use" with retail/commercial on the ground level and residential above. Larger mixed use projects that combine commercial and residential uses will receive *maximum* points in this category only to the extent that the residential and commercial uses are well integrated with each other, sufficient pedestrian connections between uses exist and parking fields are minimized from the public view **(up to two points)**

8. Provides external bicycle paths, bike lanes or bicycle routes improvements identified in the January 2001 City of Morgan Hill Bikeways Master Plan. ~~Minimum prescribed distance and~~ Design of the bicycle improvements shall be in accordance with VTA's Bicycle Technical Guidelines. *Maximum points will be awarded to projects that provide a continuous bike path or bicycle lane improvements between the project and destination area such as stores, services, schools and major employment centers. The cost of the bicycle improvements shall be equal to or greater than \$1100 per unit per point. A value greater than \$1100 per unit per point awarded can be credited to other categories (Schools, Public Facilities or Circulation) (up to two points)*

## Article III. Procedures for Micro Project Competition

### **18.78.340 Eligible projects.**

An eligible project is any type of residential development consisting of a maximum of six dwelling units. A project must also be located on a site which represents the ultimate or finite development potential of the property. In order to be considered as ultimate development, no further subdivision and/or residential development of the property would be possible pursuant to the general plan and this title. The only exception to this limitation would be the construction of a secondary dwelling unit on a single-family lot. (Ord. 1575 N.S. § 23, 2002; Ord. 1397 N.S. § 1, 1998; Ord. 1323 N.S. § 39, 1997; Ord. 1228 N.S. § 14, 1995; Ord. 1034 § 1 (part), 1991)

### **18.78.350 Filing periods.**

Applications for development allotment evaluations shall be filed with the community development department on ~~February~~ **October** 1st ~~each calendar year~~. (Ord. 1391 N.S. § 1, 1998; Ord. 1228 N.S. § 15, 1995; Ord. 1034 § 1 (part), 1991)

### **18.78.360 Planning officers' review.**

The planning officer shall review each application to determine whether or not the proposed development conforms to the city's general plan, Title 17 and this title's requirements. If the planning officer determines that a proposed development does not conform to the general plan, Title 17 and this title, the application shall be rejected. If the application is rejected, an applicant may appeal the planning officer's determination in the manner prescribed in Section 18.78.100(B) of this chapter. (Ord. 1034 § 1 (part), 1991)

### **18.78.370 Evaluation--Standards and criteria.**

A. Projects will be evaluated according to the standards and criteria contained in Sections 18.78.200 through 18.78.330 of this chapter.

B. In order to be eligible for building allotments, a project must receive at least ~~nine~~ **seven and a half** points in Part 1 and one hundred ~~twenty-five~~ **fifty** points in Part 2 of the allotment evaluation. Those that fail to receive a minimum passing score will have the opportunity to improve their designs and reapply during the next competition.

C. To provide a more streamlined process, each micro project application shall be evaluated by the planning officer. The Part 1 criteria shall be applied in the manner consistent with the provisions contained in Section 18.78.200 of this chapter. However, under Part 2 of the evaluation, each micro project shall be assigned the following minimum scores:

Category	Minimum Score
Schools	17
Open space	12
Orderly and contiguous	2
Public facilities	5
Parks and paths	5
Housing needs	8
Housing types	12
Quality of construction	8
Lot layout and orientation	9
Circulation efficiency	8
Safety and security	<del>3</del> 5
Landscaping	7
Natural and environmental	<del>8</del> 7
<b><i>Livable Communities</i></b>	<b>5</b>
Total	<del>104</del> 110

D. The planning officer shall examine each proposed development and shall rate each development by the assignment of no more than the maximum number of points allowable on each of the following categories: schools, open space, orderly and contiguous, public facilities, parks and paths, housing needs, quality of construction, safety and security ***and livable communities***. The difference between the minimum score provided above, and the maximum score assigned in each of the aforementioned categories, shall determine a project's rating and eligibility for building allotments. In the event that two or more projects receive an equal number of points, the planning officer shall evaluate each project according to the remaining categories.

E. The planning commission shall review the planning officer's evaluation when the number of residential units in proposed developments exceeds the number of allotments authorized for the competition. (Ord. 1304 N.S. § 4, 1996; Ord. 1034 N.S. § 1 (part), 1991)

#### **18.78.380 Award of allotments.**

A. Proposed developments which have received a minimum of one hundred ~~twenty-five~~ **fifty** points under Section 18.78.120 may be awarded an allotment for the following fiscal year. Where the number of residential units in proposed developments which have received the required number of points for a development allotment evaluation exceed the numerical limits established by the city council, the available allotments shall be awarded by the planning commission on the basis of the number of points received in Section 18.78.120 starting with the proposed developments receiving the most evaluation points and proceeding in order down the list until the numerical limit established by the council has been reached. Where allotments are made on the basis of a comparative standing on the list, any applicant who has received the required minimum number of points, but who is not high enough on the list to receive a development allotment, may appeal the matter of allotment evaluation to the city council.

B. Where the number of residential units in proposed developments which have received the required number of points for a development allotment evaluation are less than the numerical limits established by the city council, the available allotments shall be awarded by the planning officer in order of applications received. An open filing period shall then be established and any unused allotments shall be awarded to projects in order of applications received, provided the new projects have received the required minimum score of ~~nine~~ **seven and a half** points under Part 1 and one hundred ~~twenty-five~~ **fifty** points under Part 2 in separate evaluations. (Ord. 1391 N.S. § 2; Ord. 1228 N.S. § 16, 1995; Ord. 1034 N.S. § 1 (part), 1991)

### **18.78.390 Distribution of allotments.**

The total allotments shall be distributed on the basis of points received and without regard to any particular geographical distribution. ~~However, the total number of allotments established by the city council for a given competition shall be subtracted from the one-third of the total allotments which may be distributed without regard to the east/west distribution as provided in Section 18.78.030(C) of this chapter. Based on the results of the RDCS competition for larger project developments, the total number of allotments in the micro projects competition may be subtracted from the one-third of the total allotments east of Monterey Road and the one-third of the total allotments west of Monterey Road. A final determination on the distribution of allotments shall be approved by the city council prior to the February competition. (Ord. 1228 N.S. § 17, 1995; Ord. 1034 N.S. § 1 (part), 1991)~~

**18.78.400      Appeal procedure.**

A.      An applicant may appeal the planning officer's evaluation to the planning commission, or the planning commission's evaluation to the city council by filing a written notice of appeal with the community development department within ~~ten~~ **fifteen** days after the notice of evaluation has been mailed ***as described in Section 18.78.125(A).***

B.      In the event an appeal of the planning officer's evaluation is filed, the planning officer shall place the matter on the next available agenda for a regular planning commission meeting. The planning commission shall consider the appeal at such regular meeting at which time the commission will hear the applicant or his representative and such other persons as may be able to assist the commission in the determination of the matter on appeal. The commission may affirm or modify the allotment evaluation. The planning commission's evaluation may be appealed to the city council in the manner prescribed under Section 18.78.130 of this chapter. (Ord. 1034 N.S. § 1 (part), 1991)

**18.78.410      Development allotment application.**

A.      An application for a development allotment shall be made to the community development department on a form provided by the city. Such application shall contain the following information and be accompanied by the documents:

1.      Uniform Application.
  - a.      Five sets of submittal plans,
  - b.      Current title report,
  - c.      Filing fees;
2.      Site Development and Landscape Plans.
  - a.      Scale, engineering scale not to exceed one inch equals forty feet on 24" x 36" sheet. Also provide a reduced size copy on 11" x 17" size sheet attached to the project narrative,
  - b.      Small inset vicinity map to show the relationship of the proposed development to adjacent development, the surrounding area and the city,
  - c.      A plan showing general lot layout, general lot sizes, typical lot dimensions, general notes and information; show storm drainage routes and lines, and areas for storm water retention,
  - d.      Include street alignments showing coordination with city streets and proposed rights-of-way; the plan should also show proposed public works improvements,
  - e.      Show proposed planting areas, park areas, and any other proposed uses,
  - f.      Include the name, address and telephone number of the applicant, architect and/or engineer; also a graphic scale and north arrow;
3.      Preliminary Architectural Plans.

- a. Scale: architectural drawings should be included at 11" x 17" size sheet(s) attached to project narrative,
- b. Provide front elevations and range of possible square footage for all models within the project,
- c. Indicate on the plans the type of housing provided, i.e., multifamily, BMR, senior, single-family, etc,
- d. Provide illustrative building elevations showing all sides of one typical model and front elevations of other buildings within the proposed development;
4. Project Narrative Questionnaire: submit three copies of the completed project narrative questionnaire;
5. Plan Preparation Guidelines.
  - a. All plans shall be drawn on uniform sheets no greater than twenty-four inches by thirty-six inches, or as approved by the community development director prior to submittal,
  - b. All plans shall be stapled together along the left margin,
  - c. All plans shall be folded into one-eighth sections or folded in such a manner that the size does not exceed nine inches by twelve inches,
  - d. All plans shall be clear, legible and accurately scaled.
- B. Each application shall be accompanied by a reasonable fee set by the city council as prescribed in Section 18.78.090(B) of this chapter. (Ord. 1391 N.S. § 3, 1998; Ord. 1034 N.S. § 1 (part), 1991)

**SECTION 2.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

**SECTION 3.** Effective Date; Publication. This Ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at a meeting of the City Council held on the 2nd day of June, 2004, and was finally adopted at a meeting of the City Council held on the 16th day of June, 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 2<sup>nd</sup> Day of June 2004, and was finally adopted at a regular meeting of said Council on the 16<sup>th</sup> Day of June 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

**AYES:**           **COUNCIL MEMBERS:**  
**NOES:**          **COUNCIL MEMBERS:**

**ABSTAIN: COUNCIL MEMBERS:**  
**ABSENT: COUNCIL MEMBERS:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Irma Torrez, City Clerk

\_\_\_\_\_  
Dennis Kennedy, Mayor

**∞ CERTIFICATE OF THE CITY CLERK ∞**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA**, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 16<sup>th</sup> Day of June 2004.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**



# ***CITY COUNCIL & REDEVELOPMENT***

## ***AGENCY STAFF REPORT***

***MEETING DATE:***    *June 2, 2004*

### **CITY MANAGER'S PROPOSED 2004/05 BUDGET AND CAPITAL IMPROVEMENT PROGRAM**

#### **RECOMMENDED ACTIONS:**

- 1) Open and close the Public Hearing
- 2) Direct staff to incorporate \$100,000 in structural General Fund expenditure reductions to the proposed 2004/05 Budget, as delineated by staff
- 3) Provide additional direction to staff concerning the proposed 2004/05, as appropriate

#### **EXECUTIVE SUMMARY:**

On May 18, City staff presented at an all day workshop the City Manager's Proposed 2004/05 Budget and Capital Improvement Program (CIP) for the years 2004/05 through 2008/09. The Budget and CIP are combined within one document. The City Council set June 2 for this public hearing and scheduled June 16 for adoption of the Budget.

The City Council directed staff to return with a plan for incorporating \$100,000 of expenditure reductions within the General Fund. The need for the additional reductions is the result of the latest proposed State revenue shifts of local taxes to the State. The current proposal would take \$357,688 away from the City in each of the next two fiscal years. Staff has identified \$100,000 in recommended expenditure reductions in the attached memo from the Budget Manager.

At the workshop, the City Council also asked various questions of staff. Questions not fully answered at the time of the workshop are addressed more fully in the attached memo.

#### **FISCAL IMPACT:**

The fiscal impact is discussed within the City Manager's budget message, which is located at the front of the Budget document. By making the additional \$100,000 in General Fund expenditure reductions, the City should be on track to meet the goals of the Sustainable Budget Strategy adopted by the City Council. However, it is possible that the State will take away more City dollars. If that occurs, then staff would return to the City Council for further revisions to the 2004/05 Budget.

**Agenda Item # 22**

**Prepared By:**

\_\_\_\_\_  
**Finance Director**

**Submitted By:**

\_\_\_\_\_  
**City Manager/  
Executive Director**





# Memorandum

## Finance Department

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**Date:** May 27, 2004

**To:** Jack Dilles, Finance Director

**From:** Chu Thai, Budget Manager

**Subject:** Follow-Up to Budget Workshop

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Several questions and requests for analysis arose from the Budget Workshop on May 21, 2004. The most significant item was the need to reduce FY04/05 proposed General Fund expenditures by \$100,000. The Executive Team met and came up with the following proposal:

\$25,000	Special counsel cost reduction in City Attorney budget
25,000	Combination of benefit and salary savings from directly allocating the Recreation & Community Services Manager to the RDA Fund
10,000	Reduction in costs by combining the Recreation Guide and City Visions
2,500	Reduction in Community and Cultural Center costs achieved through elimination of lock-down security services
20,000	Reduction in Police vehicle maintenance cost achieved through extension of police vehicle useful lives
10,000	Reduction in Parks Maintenance water costs
<u>7,500</u>	<u>Reduction in Parks Maintenance contract services</u>
<b>\$100,000</b>	<b>Total Additional Savings to the General Fund FY04/05 Proposed Budget</b>

Implementing the \$100,000 savings would result in an approximate ending fund balance of \$8,236,787 at 06/30/2005 for the General Fund.

Below are additional follow-up items and their respective responses.

1. Prepare a simple one page analysis showing the cost savings from the recommended budget cuts that were included in the previously distributed 2004/05 budget. **Attached as *Budget Follow-Up #1*.**
2. Make sure that the Council's policy statements from the goal setting retreat are incorporated into the "Budget Policies" in the budget document. **Attached as *Budget Follow-Up #2 under Policy 2C*.**
3. Prepare an analysis for the past two years, and the budget year showing how much has been allocated and spent on "community promotions". **Attached as *Budget Follow-Up #3*.**
4. Prepare a memorandum on private sponsorship opportunities for the recycling calendar.

**Attached as *Budget Follow-Up #4.***

5. The City/School Liaison committee should agendize a discussion of city/school partnership on SRO's at Britton, Live Oak and Sobrato. **The meeting will take place before school starts in fall.**

6. The City/School Liaison Committee should agendize a discussion of potential maintenance partnerships for landscape maintenance at school/park interface. **The plan will take place before school starts in fall.**

7. Analyze the Community Development Fund balance trends over the past five years by each of the three categories (planning, building and engineering). **Attached as *Budget Follow-Up #7.***

8. Prepare a memorandum on Measure C criteria relating to water conservation. How many points? For what types of projects? **Attached as *Budget Follow-Up #8.***

9. Analyze the fund balances and projects in Fund 347 "Public Facility Impact Fee Fund" and evaluate whether any discretionary balances can be used for the library project. **Of the \$1,076,762 in fund balance available at 06/30/04, \$821,762 is remaining encumbrance, established in FY00/01, for the design of the Library, financed with Redevelopment monies previously transferred into this fund.**

10. Prepare a memorandum on the after school programs at Village Avante and the Willows. How many participants? What is reaction of the site sponsors? **Village Avante's average daily attendance (ada) was 10 in April and met 2 times per week. Willows' ada was 6 and met 2 times per week. Village Avante has verbalized to Recreation its disappointment due to the program ending, but they understand the budget crisis. They asked about the cost to operate the program, and after receiving our figures, determined that they could not afford to run the program either. We have not heard anything from the Willows.**

11. Determine how many hours of part time/temps are being budgeted in the Recreation programs. **The Aquatics Center will utilize approximately 60-80 part time/temps, providing 11.25 full time equivalent, or 23,400 hours of service. The Community & Cultural Center will utilize approximately 53 part time/temps, providing 7,850 hours (3.75 FTE) of service.**

## Budget Follow-Up #1

Reductions	Department	Details of Reductions
\$50,000	City Clerk	<ul style="list-style-type: none"> <li>• Eliminate vacant .5 OA II position</li> <li>• Reduce supplies and materials for Council Reduce community promotions budget by 48% Reduce supplies and materials for Clerk office</li> </ul>
\$50,000	City Attorney	<ul style="list-style-type: none"> <li>• Eliminate contract services Transfer \$25,000 of City Attorney costs to the RDA Reduce special counsel</li> </ul>
\$165,000	City Manager	<ul style="list-style-type: none"> <li>• Reassign environmental programs to PW</li> <li>• Eliminate recycling calendar</li> <li>• Eliminate solid waste audits &amp; studies</li> <li>• Eliminate 6 issues of City Visions</li> <li>• Reduce contract services</li> <li>• Reductions in contract labor and supply &amp; material exp.</li> </ul>
\$141,000	Recreation	<ul style="list-style-type: none"> <li>• Reduce event coordinator hours from 60 hr/wk to 40 hrs/wk</li> <li>• Assign .50 management analyst hours to community development</li> <li>• Eliminate subsidy for summer playground program</li> <li>• Redeploy 25% of Acct. Asst. from Finance to Recreation</li> <li>• Reduce admin analyst hours by 25%</li> <li>• Transfer cost of citywide events such as Halloween Party and Taste of MH to the RDA</li> <li>• Reduce front office hours at the CCC</li> <li>• Eliminate after school program at Village Avante</li> </ul>
\$50,000	Finance	<ul style="list-style-type: none"> <li>• Shift general fund portion of credit card merchant fees to other funds</li> <li>• Assign .25 of Accounting Assistant II position to Recreation</li> <li>• Reduce Accounting Assistant II position by .25</li> <li>• Miscellaneous reductions in supplies and materials</li> </ul>
\$112,000	Human Resources	<ul style="list-style-type: none"> <li>• Eliminate all employee events except recognition</li> <li>• Eliminate (redeploy) .5 HR Assistant position</li> <li>• Eliminate HR Supervisor position</li> <li>• Reduce special counsel, contract services &amp; advertising</li> </ul>
\$173,000	Police	<ul style="list-style-type: none"> <li>• Eliminate vacant 34th police officer position</li> <li>• Eliminate vacant .5 record specialist position</li> <li>• Eliminate vacant .5 cadet position</li> <li>• Eliminate filled .5 cadet position</li> </ul>
\$125,000	Park Maint. (PW)	<ul style="list-style-type: none"> <li>• Eliminate 2 park Groundkeeper positions filled with temp employee</li> <li>• Reduce contract services and supplies and materials</li> </ul>
<b>\$866,000</b>	<b>Citywide</b>	<b>Original Savings Target – \$800,000</b>

# Fiscal Policies

## 1. REVENUE

- A. The City will endeavor to maintain a diversified and stable revenue base to minimize the effects of economic fluctuations on revenue generation.
- B. The City will estimate revenues using an objective, analytical process; in the case of uncertainty, conservative projections will be utilized.
- C. The City will fund all current expenditures from current revenues and available fund balance, avoiding procedures that balance current budgets by postponing needed expenditures, accruing future revenues, or rolling over short-term debt.
- D. Development process costs and related administrative expenses will be offset by development fees.
- E. The City will identify basic tax-provided services and will establish user fees and charges for services provided in excess of basic services.
- F. City staff will provide monthly reports to the City Council which compare and analyze year-to-date actual revenues and expenditures to budget.

## 2. RESERVES & DESIGNATIONS

### Purpose

- A. The City of Morgan Hill commits to target the minimum level necessary to maintain the City's credit worthiness and to adequately provide for economic uncertainties, local disasters or catastrophes, future debt or capital obligations, cash flow requirements and legal requirements.
- B. The City shall maintain unappropriated fund balance or working capital in the General Fund, Water and Sewer operating funds, Water and Sewer rate stabilization funds, Community Development Fund, and certain internal service funds.

### Policy

- C. General Fund – As adopted at the City Council Policies & Goal Setting retreat on February 18, 2004:

General Fund Reserves may be used to support General Fund expenditures as long as:

- 1. Revenues and expenditures balance by June 30, 2008, and
- 2. Reserve levels are not depleted below 25% of revenues in any year with the following exception:
  - a. reserves below 25% may be invested in long term cost savings projects or high return economic development projects, and
  - b. reserves shall never be depleted below 10% of revenues which shall be maintained as an ongoing reserve for emergencies.

- D. Water and Sewer Operating Funds – The City shall make every effort to keep a minimum reserve level of 25% of the appropriated operating budget for each of these enterprise operating funds.
- E. Water and Sewer Rate Stabilization Funds – The City shall make every effort to keep a minimum reserve level for each of these funds equal to 20% of the annual estimated utility usage revenue accounted in for in the operating budget, in case of a temporary drop in customer demand.
- F. Community Development Fund – The City shall make every effort to keep a minimum reserve level of 30% of the appropriated operating budget for the Community Development Fund, in order to provide for those temporary periods when less development activity occurs and less revenue is collected by the City.

**City of Morgan Hill**  
**Community Promotions [010-1220]**

**Budget Follow-Up #3**

Description	FY 2002		FY 2003		FY 2004		FY 2005
	Budget	Actual	Budget	Actual	Budget	Projected	Budget
Salaries	5,438	6,083	9,972	10,495	10,344	10,393	11,110
Benefits	730	945	1,671	1,897	2,121	2,245	3,201
Telephone	-	56	100	86	100	100	100
Contract Services	6,373	9,959	2,000	-	-	1,418	-
Office Supplies	1,000	354	2,000	26	200	100	200
Other Supplies*	13,602	17,398	22,900	30,653	17,400	15,761	11,400
Advertising	-	-	-	81	-	-	-
Postage	500	687	500	160	300	300	300
Printing	7,698	-	10,698	-	1,000	1,221	1,000
Subsc and Publications	80	-	80	-	-	-	-
Computer Software/hardware	200	-	200	-	-	-	750
General Liability Insurance	86	76	82	97	77	77	53
	35,707	35,558	50,203	43,495	31,542	31,615	28,114

	FY 2002		FY 2003		FY 2004		FY 2005
	Budget	Actual	Budget	Actual	Budget	Projected	Budget
<i>*Detail of Other Supplies:</i>							
Taste of MH	7,102	12,098		21,618		486	
IDI	6,500	5,300		6,092		14,955	
Art ala Carte				211			
Patriots Day				1,037			
Healthy Communities				766			
Project Cornerstone				75			
CCC Grand Open				854			
KiwanisHoliday Parade						125	
Artists Reception						195	
<i>Subtotal Other Supplies</i>	<i>13,602</i>	<i>17,398</i>	<i>22,900</i>	<i>30,653</i>	<i>17,400</i>	<i>15,761</i>	<i>11,400</i>



# Memorandum

## City Manager's Office

**Date:** May 26, 2004

**To:** J. Edward Tewes

**From:** Anthony Eulo

**Subject:** Annual Environmental Calendar

As you know, the currently-proposed budget assumes that the City will no longer produce the annual environmental calendar. The costs to produce and distribute the calendar are approximately \$25,000. This includes \$2,500 for postage, \$4,500 for design, and \$18,000 for printing.

It would be possible to solicit donations and sponsorships from the Morgan Hill community to pay for the calendar. While this could come in the form of one large sponsor, it might also be possible to have multiple sponsors. Here are three different ways sponsorship could work:

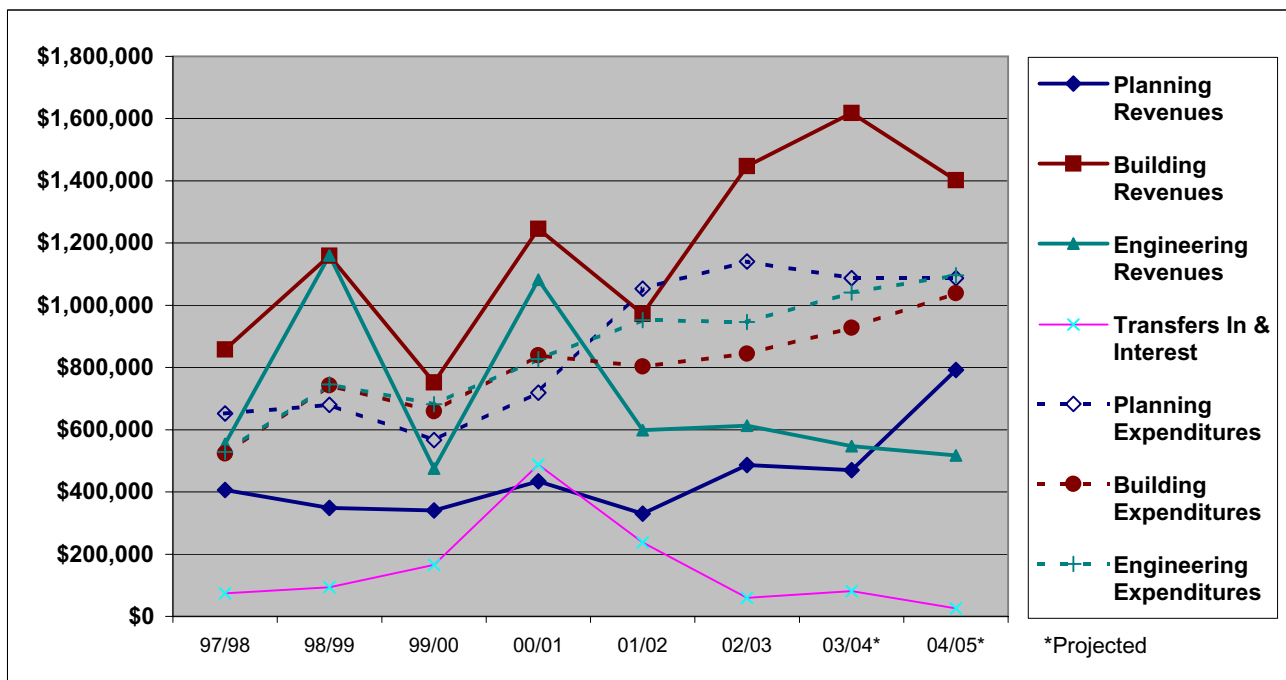
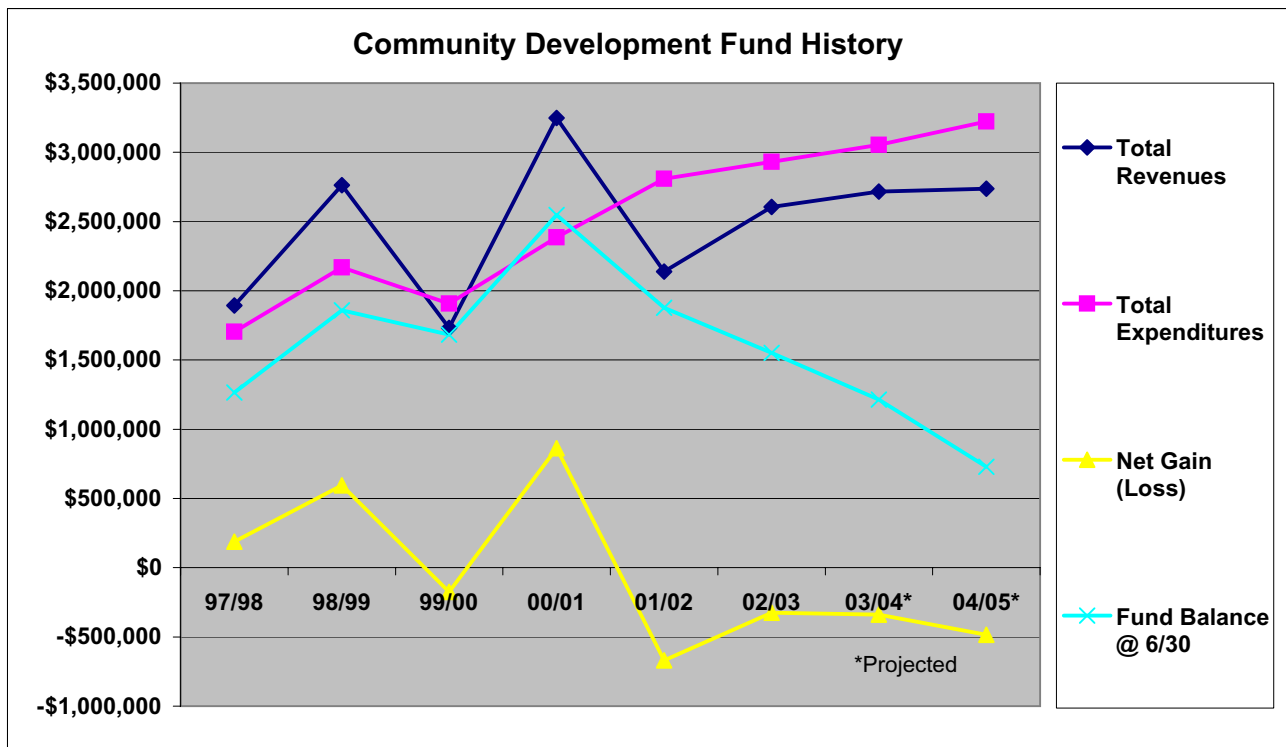
Scenario 1	A single \$25,000 sponsor is found for the calendar. This sponsor would receive thanks and recognition throughout the document. In addition, a full sized sheet about the sponsor could be inserted into the very center of the document.
Scenario 2	Twelve \$1,000 sponsors and a single \$13,000 sponsor are obtained. The twelve sponsors are each recognized on a single month and the major sponsor is recognized throughout the document.
Scenario 3	Twelve \$2,000 sponsors are obtained that each receive recognition on a single month.

Obviously, there are different incarnations of these scenarios that can be adjusted depending on the community's interest in the effort.

At the May 21 Budget Workshop, several members of the Council indicated that they may be interested in working to obtain calendar support. If the Council would like to work further on this project, I would be happy to supply additional data and administrative support for their efforts.

# Budget Follow-Up #7

Community Development Fund Analysis	97/98 Actuals	98/99 Actuals	99/00 Actuals	00/01 Actuals	01/02 Actuals	02/03 Actuals	03/04* YE Proj	04/05* Projections
Planning Revenues	406,309	348,967	340,432	433,628	329,770	486,263	469,678	792,271
Building Revenues	858,078	1,159,563	751,804	1,245,979	972,179	1,446,883	1,618,300	1,402,000
Engineering Revenues	554,708	1,160,308	474,893	1,082,072	598,814	612,730	546,900	517,500
Transfers In & Interest	73,640	93,403	165,502	487,487	237,873	59,477	81,719	25,538
Total Revenues	1,892,735	2,762,240	1,732,631	3,249,166	2,138,636	2,605,352	2,716,597	2,737,309
Planning Expenditures	652,457	679,489	567,208	719,428	1,053,280	1,140,646	1,086,838	1,086,783
Building Expenditures	523,761	742,845	659,353	839,393	802,824	844,132	927,596	1,038,955
Engineering Expenditures	528,234	745,444	681,837	827,096	952,009	946,372	1,040,447	1,096,107
Total Expenditures	1,704,453	2,167,778	1,908,398	2,385,917	2,808,114	2,931,150	3,054,881	3,221,845
Net Gain (Loss)	188,283	594,462	(175,767)	863,249	(669,478)	(325,797)	(338,284)	(484,536)
Fund Balance @ 6/30	1,265,060	1,859,522	1,683,755	2,547,004	1,877,526	1,551,729	1,213,445	728,909



## **Discussion on Measure C and water conservation**

Concerning how Measure C, the Residential Growth Control System, encourages water conservation in residential development, the City does provide certain incentives under current and proposed procedures. The proposed procedures have been approved by the Planning Commission and are to be considered on June 2 by the City Council. These procedures provide for a ***maximum of three points*** for landscape planting and irrigation systems as part of the Measure C scoring process, which may be earned as follows:

One half point may be earned if “Drought tolerant grasses are used for lawn areas and no more than 25% of the landscape area is covered with lawn...”

One half point may be earned if “Automatic irrigation systems utilize separate valves and circuits for trees; shrubs and ground areas; and lawn areas. Minimum of three separate valves required... Water conserving irrigation system is also used within the development, i.e., drip irrigation.”

One half point may be earned if “The landscape to be installed by the developer will include hardscape coverage such as decorative paving, wood decking, decorative stone and similar non-irrigated areas on at least fifteen percent of the landscape area...”

One half point may be earned if “For at least 50% of all plant material, uses water conserving plants contained on the Selected Plant List...”

Up to two points may be earned if “Uses a separate water source (e. g., well, import or recycled water) to irrigate common area landscape areas and front yard areas that are maintained by a homeowners association...”

Up to one point may be earned if “Project connects to an existing water supply separate from the City’s water system (e. g., an off-site irrigation well) for landscape irrigation. Applies to small and micro projects only.”





## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: June 2, 2004***

### **APPROVAL OF 2003 REPORT REGARDING PUBLIC HEALTH GOALS FOR WATER QUALITY**

**RECOMMENDED ACTION(S):** For Council information only.

**EXECUTIVE SUMMARY:** Attached for your approval is the final draft of a report prepared by staff comparing our City's drinking water quality with public health goals (PGHs) adopted by California EPA's Office of Environmental Health Hazard Assessment (OEHHA) and with maximum contaminant level goals (MCLGs) adopted by the USEPA. PGHs and MCLGs are not enforceable standards and no action to meet them is mandated.

SB 1307 (Calderon-Sher; effective 1-1-97) added new provisions to the California Health and Safety Code which mandate that a report be prepared by July 1, 1998, or when the total customers exceed 10,000 and every three years thereafter. This is the first year that this requirement has been applied to Morgan Hill. The attached report is intended to provide information to the public in addition to Annual Water Quality Reports mailed to each customer.

Our water system complies with all of the health-based drinking water standards and maximum contaminate levels (MCLs) required by the California Department of Health Services and the USEPA. No additional actions are recommended.

The law requires that a public hearing be held (which has been scheduled for tonight) for the purpose of accepting and responding to public comment on the report. This public hearing has been noticed as required for public hearings.

**FISCAL IMPACT:** The cost for staff time to prepare this report is funded within our current year Water Operations budget.

**Agenda Item # 23**

**Prepared By:**

**Utility Systems  
Manager**

**Approved By:**

**Department Director**

**Submitted By:**

**City Manager**

# **CITY OF MORGAN HILL**

## **REPORT ON CITY'S WATER QUALITY RELATIVE TO PUBLIC HEALTH GOALS**

### Background:

Provisions of the California Health and Safety Code (1164706) specify that larger (>10,000 service connections) water utilities prepare a special report by July 1, 2004 if their water quality measurements have exceeded any Public Health Goals (PHGs). PHGs are non-enforceable goals established by the Cal-EPA's Office of Environmental Health Hazard Assessment (OEHHA). The law also requires that where OEHHA has not adopted a PHG for a constituent, the water suppliers are to use the Maximum Contaminate Level Goal (MCLGs) adopted by USEPA. Only Constituents which have a California primary drinking water standard and for which either a PHG or MCLG has been set are to be addressed. (Reference No. 1 is a list of all regulated constituents with the MCLs and PHGs or MCLGs).

There are a few constituents that are routinely detected in water systems at levels usually well below the drinking water standards for which no PHG nor MCLG has yet been adopted by OEHHA or USEPA including Total Trihalomethanes. These will be addressed in a future required report after a PHG has been adopted.

The new law specifies what information is to be provided in the report. (See Reference No. 1)

If a constituent was detected in the City's water supply between 2001 and 2003 at a level exceeding an applicable PHG or MCLG, this report provides the information required by the law. Included is the numerical public health risk associated with the MCL and the PHG or MCLG, the category or type of risk to health that could be associated with each constituent, the best treatment technology available that could be used to reduce the constituent level, and an estimate of the cost to install that treatment if it is appropriate and feasible.

### What are PHGs?

PHGs are set by the California Office of Environmental Health Hazard Assessment (OEHHA) which is part of Cal-EPA and are based solely on public health risk considerations. None of the practical risk-management factors that are considered by the USEPA or the California Department of Health Services (CDHS) in setting drinking water standards (MCLs) are considered in setting PHGs. Risk factors include analytical detection capability, treatment technology available, benefits and cost. The PHGs are not enforceable and are not required to be met by any public water system. MCLGs are the federal equivalent to PHGs.

### Water Quality Data Considered:

All of the water quality data collected by our water system between 2001 and 2003 for purposes of determining compliance with drinking water standards was considered. This data was all summarized in our 2001, 2002, and 2003 Consumer Confidence Reports which were mailed to all of our customers in June of each of these years. (Reference No. 3)

## Constituents Detected That Exceed a PHG or a MCLG:

The following is a discussion of constituents that were detected in one or more of our drinking water sources at levels above the PHG, or if no PHG, above the MCLG. In most cases the testing is done at the source which in our case is a groundwater well. In other cases, we are to test at various points in the public water distribution system, and in the case of lead and copper, we are to test at the tap which is after possible contamination from the private plumbing systems.

### Coliform Bacteria

The MCL for coliform bacteria is 5% positive samples of all samples per month. The MCLG is zero. The reason for the coliform drinking water standard is to minimize the possibility of the water containing pathogens which are organisms that cause waterborne disease. Because coliform is only a surrogate indicator of the potential presence of pathogens, it is not possible to state a specific numerical health risk. That is coliforms are sometimes present due to re-growth or sampling errors, and represent little or no risk to public health. While USEPA normally sets MCLGs "at a level where no known or anticipated adverse effects on persons would occur", they indicate that they cannot do so with coliforms.

During 2003, we collected between 40 and 50 samples each month for coliform analysis. In November, a sample was found to be positive for coliform bacteria and immediate follow-up samples were taken and were found negative indicating an absence of pathogens. In November a maximum of 2.3% of these samples were positive with an average of 0.0019% for the year.

Coliform bacteria are an indicator organism that are ubiquitous in nature and are not generally considered harmful. They are used as an indicator because of the ease in monitoring and analysis. If a positive sample is found, it indicates a potential problem that needs to be investigated, usually including follow-up sampling. It is not at all unusual for a system to have an occasional positive sample due to sampling errors. It is difficult, if not impossible, to assure that a system will never get a positive sample. In addition, due to the sensitive nature of the laboratory analysis method, positive results caused by corrupted samples occur.

City of Morgan Hill maintains a disinfection residual (chlorine) throughout the distribution system to prevent the growth of microbial organisms. All wells are disinfected with sodium hypochlorite prior to entry into the distribution system. Other equally important measures that we have implemented to control bacteria include: a comprehensive cross-connection control program, an effective monitoring program to insure positive pressures in our distribution system. As a result, our system has already taken all the steps described by CDHS as "best available technology" for coliform bacteria in Section 64447, Title 22, CCR.

### Lead and/or Copper

There is no MCL for Lead or Copper. Instead the 90<sup>th</sup> percentile value of all samples from household taps in the distribution system cannot exceed an Action Level of 0.015mg/l for lead and 1.3 mg/l for copper. The PHG for lead is 0.002 mg/l. The PHG for copper is 0.17 mg/l.

The category of health risk for lead is damage to kidneys or nervous system of humans. The category of health risk for copper is gastrointestinal irritation. Numerical health risk data on lead and copper in water have not yet been provided by OEHHA, the State agency responsible for providing that information.

All of our source of water samples for lead and copper in 2003 were non detect (ND). Based on extensive sampling of our sampling distribution system in 2003, our 90<sup>th</sup> percentile value for lead was 0.012mg/l and for copper was 0.57 mg/l.

Our water system is in full compliance with the Federal and State Lead and Copper Rule. Based on our extensive sampling, it was determined according to State regulatory requirements that we meet the Action Levels for Lead and Copper. Therefore, we are deemed by CDHS to have “optimized corrosion control” for our system.

In general, optimizing corrosion control is considered to be the best available technology to deal with corrosion issues and with any lead or copper findings. We continue to monitor our water quality parameters that relate to corrosivity, such as the pH, hardness, alkalinity, total dissolved solids, and will take action if necessary to maintain our system in an “optimized corrosion control” condition.

Since we are meeting the “optimized corrosion control” requirements, it is not prudent to initiate additional corrosion control treatment as it involves the addition of other chemicals that could generate additional water quality issues. Therefore, no estimate of cost has been included.

### Cadmium

The PHG for Cadmium is 0.07 ppb. The MCL or drinking water standard for cadmium is 5 ppb. On August 27, 2001 the City detected Cadmium in one of our 14 production wells at a level of 1.0 ppb; however our latest sample in April 2004 was ND (non-detect). The level detected in 2001 was below the MCL. The category of health risk associated with Cadmium, and the reason that a drinking water standard was adopted for it, is that some people who drink water containing cadmium in excess of the MCL over many years may experience kidney damage. CDHS says that “Drinking water that meets DHS standard is associated with little to none of this risk and is considered safe with respect to Cadmium”.

*(Note this language is taken from CDHS blue book of drinking water laws and regulations, Section 64468.1 (E), Title 22, CCR.)*

The Best Available Technologies (BAT) for Cadmium to lower it below the PHG is either Ion Exchange or Reverse Osmosis. The estimated cost to install and operate an Ion Exchange treatment plant would be \$500 - \$700 per acre foot (approximately three times the cost of removing perchlorate) however at this time there is no design that is NFS approved for Ion Exchange Treatment.

## RECOMMENDATIONS FOR FURTHER ACTION:

The drinking water quality of the City of Morgan Hill meets all State of California, Department of Health Services and USEPA drinking water standards set to protect public health. To further reduce the levels of the constituents identified in this report that are already significantly below the health based Maximum Contaminant Levels established to provide “safe drinking water”, additional costly treatment processes would be required. The effectiveness of the treatment processes to provide any significant reductions in constituent levels at these already low values is uncertain. The health protection benefits of these further hypothetical reductions are not clear and may not be quantifiable. Therefore, no action is proposed.

## REFERENCES:

- No. 1 Excerpt from California Health & Safety Code 116470 (b)
- No. 2 Table of Regulated Constituents with MCLs, PHGs or MCLGs
- No. 3 City of Morgan Hill’s 2001, 2002 and 2003 Consumer Confidence Reports

**TABLE 1: Health Risk Categories and Cancer Risk Values for Chemicals with California Public Health Goals (PHGs)**

Chemical	Health Risk Category <sup>1</sup> (more specific information in parentheses)	California PHG (mg/L) <sup>2</sup>	Cancer Risk <sup>3</sup> @ PHG	California MCL <sup>4</sup> (mg/L)	Cancer Risk @ California MCL	City Level (mg/L)
Cadmium	Chronic toxicity (kidney effects, human data)	0.00007	NA	0.005	NA	.001
Copper	Acute toxicity (gastrointestinal effects, human data)	0.17	NA <sup>5</sup>	1.3 (AL) <sup>6</sup>	NA	0.57
Lead	Neurotoxicity (decreased learning ability, human data)	0.002	NA	0.015 (AL)	NA	.012

<sup>1</sup> Health risk category based on experimental animal testing data evaluated in the OEHHA PHG technical support document unless otherwise specified.

<sup>2</sup> mg/L=milligrams per liter of water or parts per million (ppm) (PHGs are expressed here in milligrams per liter for consistency with the typical unit used for MCLs and MCLGs)

<sup>3</sup> Cancer Risk = theoretical 70-year lifetime excess cancer risk at the statistical upper confidence limit. Actual cancer risk may be lower or zero. Cancer risk is stated in terms of excess cancer cases per million (or fewer) population, e.g.,  $1 \times 10^{-6}$  means one excess cancer case per million population;  $5 \times 10^{-5}$  means 5 excess cancer cases per 100,000 population.

<sup>4</sup> MCL = maximum contaminant level

<sup>5</sup> NA = not applicable. No cancer risk is calculated for chemicals considered “noncarcinogens.” For noncarcinogens, an exact numerical public health risk cannot be calculated. The PHG for these chemicals is set at a level which is believed to be without any significant public health risk to individuals exposed to that chemical over a lifetime.

<sup>6</sup> AL = action level



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: June 2, 2004***

### **AMENDMENT OF MUNICIPAL CODE REGARDING AMENDMENT OF UNIFORM ADMINISTRATIVE CODE PROVISIONS, INCLUDING FEE REVISION**

#### **RECOMMENDED ACTION(S):**

1. Open/close Public Hearing.
2. Waive in Full the reading of the Ordinance.
3. First Reading of all Ordinance.

#### **EXECUTIVE SUMMARY:**

Pursuant to the Health and Safety Code, the Community Development Department is required to adopt certain uniform codes published by various professional organizations as our codes governing various building standards. If local agencies do not act to adopt their own versions of the uniform codes, the versions adopted by HCD will govern building standards. In 2003, the Council adopted revised versions of the Uniform Administrative, Building, Electrical, Mechanical and Plumbing Codes.

It is also necessary to revise certain provisions of the Municipal Code to reflect adoption of the Uniform Administrative Code. The revisions attached hereto accomplish the following: (1) revise the date of the adopted Uniform Administrative Code in the Municipal Code from 1991 to 1997; (2) delete language in the Municipal Code regarding misdemeanor penalties for building and Uniform code violations as this is duplicative of the penalty provisions found elsewhere in the Municipal Code; and (3) revise fee schedules for microfilming and combination plan checks. The revisions have been approved by Larry Ford, Building Official.

**FISCAL IMPACT:** No budget adjustment required.

**Agenda Item #24**

**Prepared By:**

**Helene Leichter**  
**City Attorney**

**Submitted By:**

**J. Edward Tewes**  
**City Manager**

**ORDINANCE NO. \_\_\_, NEW SERIES**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL REPEALING CHAPTER 15.04 (Administrative Code) OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL, AND ADDING SECTION 15.04.100 (Violations of Chapter - Penalties) TO TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL, THEREBY AMENDING PROVISIONS OF THE UNIFORM ADMINISTRATIVE CODE REGARDING BUILDING ADVISORY COMMITTEES (UAC SECTION 204), VIOLATIONS (UAC SECTION 205), CERTIFICATE OF OCCUPANCY-CERTIFICATE ISSUED (UAC SECTION 309.3), and FEES (UAC TABLE 3-A).**

**WHEREAS**, Health and Safety Code section 17958 allows the adoption by the City of Morgan Hill of regulations imposing the requirements of certain uniform industry codes as specified in Health and Safety Code section 17922; and,

**WHEREAS**, the City of Morgan Hill has adopted, pursuant to Ordinance No. 1593, the 1997 Uniform Administrative Code for use as the Administrative Code of the City of Morgan Hill for building and construction purposes; and,

**WHEREAS**, the City Council finds that the amendments to Section 15.04.050 (UAC Section 204) is a purely technical amendment which is necessary to clarify which edition of the Uniform Administrative Code is applicable; and,

**WHEREAS**, the City Council finds that the amendment to Section 15.040.060 (UAC Section 205) is necessary to clarify that the penalty for violations applies to all violations of Chapter 15 of the Morgan Hill Municipal Code, which incorporate the Uniform Administrative Code, as well as other technical codes; and,

**WHEREAS**, the City Council finds that the amendment to UAC Section 309.3 is necessary to clarify that the building official may not be the only person performing the final inspection and that the building must be in compliance with all city ordinances before a certificate of occupancy is issued; and,

**WHEREAS**, the City Council finds that the amendments to TAC Table 3-A are consistent with the power granted to the local agency by Uniform Administrative Code Section 304.1 to assess fees, and the fees assessed bear a reasonable relationship to, and do not exceed, the cost of providing such services; and,

**WHEREAS**, the City Council finds that provision of penalties for violation of the uniform codes and Chapter 15 is more appropriately adopted as a separate Municipal Code provision, not as an amendment to the Uniform Administrative Code.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1.** Section 15.04.010 (Document adopted by reference—Copies on file) of Chapter 15 (Administrative Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:

**“Section 15.04.010 Document adopted by reference--Copies on file.** Pursuant to Sections 50022.1 through 50022.4, inclusive, of the Government Code of the state, the text of that certain publication published and adopted by the International Conference of Building Officials entitled "Uniform Administrative Code, ~~1997~~ 1994 Edition," is adopted as the rules and regulations within the city as to all matters therein contained except as herein otherwise provided. One copy of the Uniform Administrative Code will at all times be kept on file in the office of the building official, and is available for public inspection.”

**Section 2.** Section 15.04.050 (UAC Section 204 amended—Building advisory committee) of Chapter 15 (Administrative Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:

**“Section 15.04.050 UAC Section 204 amended--Building advisory committee.** Section 204 of the ~~1997~~ 1994 Uniform Administrative Code is amended to read as follows: . . . “

**Section 3.** Section 15.04.060 (UAC Section 205 amended—Violation and penalty provisions) of Chapter 15 (Administrative Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:

**“Section 15.04.060 UAC Section 205 amended—Violation. and—penalty—provisions.** Section 205 of the ~~1997~~ 1994 Uniform Administrative Code is amended to read as follows:

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use, occupy, or maintain any building or structure in the City of Morgan Hill or cause the same to be done, contrary to or in violation of any of the provisions of this Chapter.

~~Any person, firm or corporation, violating any of the provisions of this Chapter or any of the technical codes including the Building, Electrical, Plumbing, Mechanical, Housing or Abatement of Dangerous Buildings Code, shall be guilty of a misdemeanor, punishable by a fine not exceeding one thousand dollars or imprisonment not exceeding six months, or by both such fine and imprisonment.”~~

**Section 4.** Section 15.04.070 (UAC Section 309 amended—Certificate of occupancy) of Chapter 15 (Administrative Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:

**“Section 15.04.070 UAC Section 309 amended—Certificate of occupancy.** Section 309 of the ~~1997~~ 1994 Uniform Administrative Code is amended to read as follows: . . . “



**Section 5.** Section 15.04.090 (UAC Table 3-A amended—Fees) of Chapter 15 (Administrative Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:

**Section 15.04.090 UAC Table 3-A amended--Fees.** The following have been added to Table 3-A of the ~~1997~~ ~~1994~~ Uniform Administrative Code:

(1) Microfilming fees of \$2.00 per sheet are added to Table 3-A of the Building Permit Fee chart and will be required to be paid on all residential, commercial and industrial plans. ~~Microfilming fees of \$5.00 for ten sheets or less or \$10.00 for more than ten sheets of calculations and reports for all other submittals.~~

(2) The building official is hereby authorized to waive building permit fees for minor and rehabilitation for single family dwellings where the applicant's total household income is no more than the Santa Clara County Income Guidelines CDBG (50% of median income).

(3) Plan checking fees are added to Table 3-A of the Building Permit Fee chart and will be required for all extensive energy, handicap, or other miscellaneous plan checks. The fees will be 10% of the valuation for energy and 5% of the valuation for handicapped fees in addition to building plan check fee. Building plan check fees are 75% of the building permit fee, ***and combination plan check fees are 80% of the building permit fee.***

**Section 6.** Section 15.04.100 (Penalty) of Chapter 15 (Administrative Code) of Title 15 (Buildings and Construction) is hereby added to read as follows:

**“Section 15.04.100 Violation.** Any person, firm or corporation, violating any of the provisions of this Chapter or any of the technical codes including the Building, Electrical, Plumbing, Mechanical, Housing or Abatement of Dangerous Buildings Code, shall be guilty of a misdemeanor, punishable by a fine not exceeding one thousand dollars or imprisonment not exceeding six months, or by both such fine and imprisonment.”

**Section 7.** **Severability.** Should any provision of this ordinance be deemed unconstitutional or unenforceable by a court of competent jurisdiction, such provision shall be severed from the ordinance, and such severance shall not affect the remainder of the ordinance.

**Section 8.** **Effective Date; Posting.** This ordinance shall take effect thirty (30) days after its second reading. This ordinance shall be posted at City Hall.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 2<sup>nd</sup> Day of June 2004, and was finally adopted at a regular meeting of said Council on the 16<sup>th</sup> Day of June 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

<b>AYES:</b>	<b>COUNCIL MEMBERS:</b>
<b>NOES:</b>	<b>COUNCIL MEMBERS:</b>
<b>ABSTAIN:</b>	<b>COUNCIL MEMBERS:</b>
<b>ABSENT:</b>	<b>COUNCIL MEMBERS:</b>

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
**Irma Torrez, City Clerk**

\_\_\_\_\_  
**Dennis Kennedy, Mayor**

**∞ CERTIFICATE OF THE CITY CLERK ∞**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,** do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 16<sup>th</sup> Day of June 2004.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**



## **CITY COUNCIL STAFF REPORT**

**MEETING DATE:** *June 2, 2004*

**HOUSING TYPE, DISTRIBUTION AND TERM FOR 2004-05 MEASURE  
"C" COMPETITION (FY 2006-07 BUILDING ALLOTMENT) AND  
SEPARATE DOWNTOWN AREA COMPETITION (FY 2007-08  
BUILDING ALLOTMENT)**

**RECOMMENDED ACTION(S):**

Adopt Resolution approving the total building allotment and distribution and authorizing Measure C competitions to be conducted during fiscal year 2004-05 for the FY 06/07 and FY 07/08 building allotment and authorizing a separate Downtown Area competition next year for a portion of the FY 07/08 building allotment.

**Agenda Item # 25**

**Prepared By:**

\_\_\_\_\_  
**Planning Manager**

**Approved/Submitted  
By:**

\_\_\_\_\_  
**City Manager**

**EXECUTIVE SUMMARY:** In June of each year preceding a Measure P/C competition, the City Council is required to establish the total number and type of housing units to be awarded for each type of housing in the next Measure C competition. The Planning Commission recommends the City Council authorize a Measure C competition to be held for the FY 06/07 and FY 07/08 building allocation. As in prior years, the Commission recommends the Council establish set asides for separate 100% affordable, micro and open/market rate competitions. The Commission recommends the allotment be distributed as follows: **50** units would be reserved for projects that are 100% affordable in each of the two fiscal years; **10** units would be reserved for the micro project competition in each of the two years; **103** units would be reserved for open/market rate projects in FY 06/07 and **135** units would be reserved for open/market rate projects in FY 07/08.

Measure C, requires the Council to reserve a portion of the allocation for small vertical mixed use projects and for downtown area projects. The Council must also define the geographic limits of the Downtown Area. The Commission recommends the Council reserve **10** building allocations in each of the two fiscal years for small vertical mixed use projects. The allocations for these projects would be awarded on a first come, first served basis and any unused allocations from the first year would carry over to the second year. For Downtown Area projects, the Commission recommends the Council set-aside **15** units for FY 06/07 and **40** units for FY 07/08. Should any portion of the first year set-aside not be used, the unused portion would be added to the Downtown Area set-aside for FY 07/08. A separate Downtown Area competition would be conducted to award the FY 07/08 allotment. It is recommended that the geographic limits of the Downtown be Main Ave. to the north, Butterfield to the east, Dunne Ave. to the south and Del Monte Ave. to the west.

In addition to the above set-aside, the Planning Commission recommends the Council reserve **6** allocation in FY 06/07 and **45** allocations in FY 07/08 for on-going projects as outlined in the attached memorandum. This set-aside is intended to ensure that these partially built-out projects are eventually completed. The attached memorandum provides additional background information in this item.

The Commission voted 4-2 to recommend approval of the attached housing distribution by the City Council. Commissioners Acevedo and Engles preferred a one year competition and voted against the resolution.

**FISCAL IMPACT:** No budget adjustment required.



## **MEMORANDUM**

**To: CITY COUNCIL**

**Date: June 2, 2004**

**From: COMMUNITY DEVELOPMENT DEPARTMENT**

**Subject: HOUSING TYPE DISTRIBUTION & TERM FOR FY 2004-05 MEASURE  
“C” COMPETITION (FY 2006-07 BUILDING ALLOTMENT)**

### **REQUEST**

The Planning Commission is requesting City Council approval of the housing mix and term for the next Residential Development Control System (Measure C) competition. Also requested is approval to reserve a portion of the building allotment for separate affordable housing and micro project competitions and a separate set-aside for small vertical mixed use projects.

### **RECOMMENDATION**

Adopt Resolution with the following actions:

1. Authorize a Measure C competition to be conducted during the upcoming fiscal year.
2. The Measure C competition will be for two single fiscal years, provided however, that a portion of the building allotment may be extended into a third fiscal year.
3. A portion of the building allocation shall be reserved for projects in the Downtown Area as part of the Open/Market Competition. The geographic limits of the Downtown Area shall be as outlined in the following sections of this report
4. A portion of the building allocation shall be reserved for small vertical mixed use projects, available on a first come, first served basis. Applications for projects in this set-aside will be accepted beginning October 1, 2004.
5. A portion of the building allocation shall be reserved for affordable and micro project competitions as outlined in the following sections of this report.
6. To ensure that on-going projects are ultimately completed, a portion of the building allocation shall be reserved for on-going projects outside of the competition process. Eligible projects shall be as outlined in the following sections of this report.

7. The balance of the allotment shall be awarded to projects in the Open/Market competition as outlined in the following sections of this report.

#### NUMBER AND TERM OF ALLOTMENTS

According to the recent changes approved under Measure C, the number of allotments shall be determined biennially using the California Department of Finance's most recently determined persons per household figures and population for the City of Morgan Hill.

The California Department of Finance's (DOF) population estimate will be adjusted for any relevant housing backlog not included in its population estimate, the population of any Existing County Subdivision enumerated in paragraph 18.78.030A that has been annexed, and any other quantifiable factor which improves the accuracy of the estimate. The adjusted population is then subtracted from 48,000, the result divided by the Department of Finance's most recently determined figure for persons per household in Morgan Hill, and then divided by the number of years remaining between that population estimate date and 2020. This gross annual allotment number is then reduced for any fiscal year by its previously awarded allotments (awarded in prior years) and the number of exempt units anticipated for that fiscal year.

According to the most recent DOF estimates, the population for Morgan Hill, as of January 1, 2004 is 35,489. The average number of persons per household is 3.021. The City has a backlog of 83 dwelling units not included in the DOF most recent population estimates. This figure would add 266 persons to the City's population resulting in an adjusted population of 35,755. No annexations of existing County Subdivisions were completed during the past year that would count against the population limit. Using the above formula, approximately 260 allocations would be available in each year of a two year competition. Staff and the Planning Commission recommend that we subtract 10 units in each year to account for exempt units (one dwelling unit developments) that are constructed each year. This will allow **250** units to be awarded in Fiscal Year 2006-07. Of this total, 75 allocations have already been awarded to projects in the most recent Open/Market and Micro competitions. Therefore, the balance of the fiscal year 2006-07 allotment to be awarded will total **175** dwelling units.

Measure C allows both annual and biennial competitions to be held. Under a biennial competition, a portion of the building allotment could be extended into a third fiscal year. Should the City Council approve a biennial competition, **250** allocations would be available for fiscal year 07-08.

#### AFFORDABLE MEASURE P COMPETITION

In order to address the need to create more housing units affordable to very low, low and median income households, it is recommended that the City continue with its past practice of reserving a portion of the allotments for a separate affordable housing competition. Policy 1(i) of the Housing Element of the General Plan recommends the City reserve a portion of the annual RDCS housing allocations for 100% affordable housing projects. The action statement under that policy recommends the City continue to reserve a minimum of 20% of the annual RDCS

building allotment for very low, low and median income housing. Staff recommends the reserve remain at 20% of the adjusted annual allotment. Should it be determined that a portion of the affordable reserve would not be utilized in the 2006-07 or 2007-08 fiscal year, the Commission could transfer the unused allotment into another allotment category at that time. The affordable housing reserve would be 50 allotments for fiscal year 2006-07 and the same number for fiscal year 2007-08.

### MICRO PROJECTS COMPETITION

It is recommended the City reserve approximately 4% of the total building allotment for the Micro Project competition. Micro projects are defined as any type of residential development consisting of a maximum of six (6) dwelling units. A project must also be located on a site which represents the ultimate or finite development potential of the property. As recommended, the Micro Projects reserve would be 10 allotments for the 2006-07 fiscal year and the same number for fiscal year 2007-08. This reserve would be comparable to the set-aside established for Micro Projects a year ago. Four Micro allocations have already been awarded to one project as part of the most recent competition, leaving 6 allotments for new projects. The project receiving the 4 unit allotment is under appeal and there is a possibility the 4 unit allotment will be rescinded. The appeal should be resolved prior to the start of the next competition so there is a possibility that the full 10 unit allotment would be available for distribution. The full 10 unit allocation is available for FY 2007-08.

### ALLOCATION FOR ON-GOING PROJECTS

The Planning Commission recommends that the City Council reserve a portion of the annual building allocation for on-going projects. These are developments such as Capriano subdivision on Tilton and Hale Avenues and the Mission Ranch subdivision on Mission View Drive. The projects are partially completed, having competed in prior year RDCS competitions. With the change in the scoring criteria and the change in the core area definition approved under Measure C, these projects may not score as well in the competitive process. To ensure that these projects are ultimately completed, a separate set-aside outside of the competition process is recommended. To be eligible, the earlier phases of an on-going development must be in compliance with the development schedule approved for the project and must have completed a phase or at least pulled 50 percent of the building permits for a phase by 9/30/04. An exception may be allowed where the delay is due to extended city processing. It is recommended that on-going projects receive up to 15 building allocations each fiscal year outside of the RDCS competition process. The portion of the building allotment awarded to on-going projects will be subtracted from the limited allotment for that fiscal year. For on-going projects awarded a building allotment in Fiscal Year 2006-07, the total allocation, including units from this set-aside, will not exceed 15 units. An on-going project may receive additional allocations (more than 15 units) through the competitive process in the RDCS competition. The allocation for on-going projects will be distributed at the same time the allocation for the Open/Market competition is awarded. Any unused on-going set-aside allocation may be distributed to eligible projects in the other set-aside categories.

Only three projects are currently eligible as on-going developments, the two subdivisions mentioned above, and the new Alicante project on Peet road, south of Cochrane Road. All three projects received a partial allocation in FY 2006-07 in last year's competition. The Capriano project was awarded 20 units and the Alicante and Mission Ranch projects were awarded 12 units each. The Capriano project would not be eligible to draw from the on-going project set-aside in FY 2006-07 having already been awarded more than 15 units in last year's competition. The other two projects would need a supplemental allocation of 3 units each to be assured of the

minimum 15 units total for the fiscal year. The Planning Commission therefore recommends that an on-going project set-aside of 6 units be established for FY 2006-07 and 45 units be reserved for the three projects (15 units each) in FY 2007-08. On-going projects may be awarded more than 15 units if they are successful in the Open/Market competition process.

#### ALLOCATION FOR PROJECTS IN THE DOWNTOWN AREA

Under Section 18.78.030D of the new Measure C Ordinance, for the competitions for allotments in fiscal years 2006-07 through 2009-2010, the City Council shall reserve a certain number of allotments for projects in the Downtown area. The number of allotments allocated, and the geographic limits of the Downtown area for this purpose, shall be determined by the City Council and may be amended, as necessary, to reflect changes in circumstances and needs. The Council may continue to reserve a certain number of allotments for projects in the Downtown Area after the 2009/10 fiscal year.

For the first Measure C competition, the Planning Commission recommends the set-aside be limited to 15 units in fiscal year 2006-07 and increased to 40 units in fiscal year 2007-08. The opportunities for Downtown Area projects in the first year will be limited until the General Plan Amendments required to implement the Downtown Plan are adopted. Under the current timeline the General Plan Amendments to create the higher density zoning will be completed in October 2004. Should any portion of the Downtown Area set-aside not be used, the Planning Commission recommends the unused portion be awarded to other projects in the Open/Market Competition for that year. The same number of units would then be added to the Downtown Area set-aside for FY 2007-08. This will be accomplished by adjusting the set-asides for other projects for the 2007-08 fiscal year. A separate Downtown Area competition, with a filing deadline of September 1, 2005, would be conducted to award the fiscal year 2007-08 allotment.

#### *Geographic Limits of the Downtown:*

For purposes of the RDCS competition the Planning Commission recommends the Downtown Area be defined as the area bounded by Main Avenue to the north, Butterfield Boulevard to the east, Dunne Avenue to the south, and Del Monte Avenue to the west.

#### SET-ASIDE FOR SMALL VERTICAL MIXED USE PROJECTS

Under Section 18.78.040E of the Measure C Ordinance, up to 10 allotments per year may be set-aside for vertical mixed-use projects. These reserved allotments may be awarded to projects that receive at least a minimum passing score through a competitive process or on a first come, first served basis.

The City Council may establish higher minimum passing scores for mixed-use projects and/or consistency with the guidelines for development contained in the City's Downtown Plan. The City Council may allow for a maximum of 20 unused mixed-use allotments to be carried over from year to year, if unused in prior years, for a maximum of 30 units potentially available for distribution in one year under this set-aside. Mixed-use projects eligible for allotments under this set-aside shall be no larger than 15 units. A single development project shall be eligible to receive allotments under this set-aside only once.

The most likely sites for small vertical mixed use projects will be in the Downtown area. Until the Downtown Plan Land Use changes and Guidelines are implemented, few, if any small vertical mixed use projects are anticipated. The Planning Commission recommends for the first Measure C competition that 10 units be reserved in each of the two fiscal years in this category. Should no vertical mixed use applications be received in the first year, the Commission recommends the unused allotment be carried over to the next fiscal year, allowing up to 20 allocations to be awarded in FY 2007-08. The Planning Commission recommends that the small vertical mixed use allotment be awarded on a first come, first served basis and that applications be accepted beginning October 1, 2004.

### OPEN/MARKET COMPETITION

The Planning Commission recommends the balance of the 2006-07 building allotment be reserved for projects within the Open/Market Competition.

The following is the recommended distribution for each building allotment category:

#### Fiscal Year 2006-07 Allocation:

<u>Allotment Category</u>	<u>Percent</u>	<u>Units</u>
On-Going Projects	2%	6
Vertical Mixed Use Projects	4%	10
Affordable Competition *	20%	50
Micro Competition **	4%	10 (4 units already allocated)
Open/Market Competition	70%	174 (71 units already allocated)
Total	<u>100%</u>	<u>250</u>

A portion of the Open/Market Competition set-aside was awarded to projects in this year's competition to accommodate second year phasing requests. A total of 71 allocations have already been awarded for this purpose. Therefore, the net total of units for the Open/Market Competition is **103** units.

### DISTRIBUTION BY HOUSING TYPE

Under Section 18.78.030 (C) of the Measure P Ordinance, the number of building allotments shall be divided between conventional single-family dwellings, mobile homes and multiple-



family dwellings in a manner determined each year by the City Council; provided, that no less than 33% of all allotments shall be awarded to single-family dwelling units.

In addition to the allotments for single-family dwellings, the Housing Element of the General Plan recommends the City continue to reserve at least 20% of all allotments for multi-family dwellings and at least 30% of all multi-family dwellings for rental units. In past competitions, at least 20% of the total building allotment has been awarded to multi-family development. It is anticipated that a portion of the 100% affordable set-aside will be developed as multi-family dwellings.

For the next Measure P competition, the following distribution by housing type is recommended:

- Affordable Competition:

Allotments would be awarded to projects without regard to housing types, provided that at least 20% of all allotments in the affordable competition are for multi-family dwellings and at least 30% of all multi-family dwellings are rental units.

- Micro Competition:

Allotments would be awarded to projects without regard to housing types. Micro projects are typically single-family attached and single-family detached residential developments.

- FY 2006-07 Open Measure P Competition:

<u>Type</u>	<u>Percent</u>
Single-family	33%
Small Projects	8%
Downtown Area	15%
Any of the above	44%

In prior years, 20% of the total annual allotment in the open market competition had been reserved for multi-family rental projects. The 20% objective is often fulfilled with the affordable housing set-aside. Projects in the affordable competition are typically 100% rental developments. A separate rental set-aside is not recommended. To ensure that at least 20 percent of the total annual allotment is for rental units, the City Council could provide a separate rental set-aside within the open/market competition. The Planning Commission is not recommending a separate rental set-aside.

The Planning Commission is not recommending a separate set-aside for senior housing. We are not aware of any proposals to create any new senior housing projects at this time.

The Planning Commission is not recommending a separate set-aside for custom lots. Custom lots may be allocated from the 50% of the Open/Market distribution reserved for any type of housing. Developers may also include custom lots within their proposed projects to receive additional points under the Housing Types Category of the RDCS evaluation.

The following table shows the recommended distribution by number of dwelling units for the open/market competition. The numbers are based on the percentage distribution of allotments described above.

### **Fiscal Year 2006-07**

<u>DISTRIBUTION BY UNITS</u>		
<b>Open/Market Competition</b>	<b>Single-Family</b>	<b>Either Type</b>
Single-family (33%)	34	
Small Projects (8%)		8
Downtown Area (15%)		15*
Any of the above (44%)		46
Sub total:	34	69

Total for Competition: 103

\* Should any portion of the Downtown Area set-aside not be used, the unused portion will be added to the Downtown Area set-aside for FY 2007-08. This will be accomplished by adjusting the set-asides for other projects in the Open/Market Competition.

### **Fiscal Year 2007-08**

<u>DISTRIBUTION BY UNITS</u>		
<b>Open/Market Competition</b>	<b>Single-Family</b>	<b>Either Type</b>
Single-family	45	
Small Projects		15
Downtown Area		40
Any of the above		35
Sub total:	45	90

Total for Competition: 135

### APPLICATION FILING DEADLINES

Measure C requires the filing deadline to be no later than 21 months preceding the fiscal year during which the allotments must be utilized. The filing deadline for the competition therefore, is October 1, 2004. This deadline applies to all competitions, including the affordable and micro competitions. As stated previously, a separate competition would be conducted next year to award the balance of the Downtown Area set-aside for FY 2007-08. Staff recommends the filing deadline for that competition be September 1, 2005.

#### Attachments:

Resolution authorizing a FY 2004-05 RDCS Competition

R:\PLANNING\WP51\RDCS\MC\2005\MC Competition 2005.mlc.doc

## **RESOLUTION NO.**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING THE DISTRIBUTION AND TERM FOR THE MEASURE "C" COMPETITION TO BE CONDUCTED DURING FISCAL YEAR 2004-2005.**

**WHEREAS**, a building allotment under the City's Residential Development Control System would be available in the 2006-07 fiscal year; and

**WHEREAS**, in the month of June or July, preceding an allotment year, the City Council is required to determine the total number and distribution of building allotments; and

**WHEREAS**, the City Council has reviewed recommendations contained in the June 2, 2004 staff report on this item, and has determined that the total number and recommended distribution of building allotment contained therein, as amended, is consistent with the General Plan and the City Code requirements under Chapter 18.78 of the Morgan Hill Municipal Code; and

**WHEREAS**, testimony received at the June 2, 2004 public meeting has also been considered in the review process;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MORGAN HILL THAT:**

**SECTION 1:** Pursuant to Sections 18.78.030 and 18.78.184 of the Morgan Hill Municipal Code, City Council hereby authorizes a Residential Development Control System (Measure C) competition to be conducted during the current fiscal year.

**SECTION 2:** Pursuant to Section 18.78.030 (C) of the Municipal Code, the City Council hereby approves:

A. A portion of the building allocation shall be reserved for affordable, market rate and micro project competitions as outlined in the attached Exhibit "A."

B. A portion of the building allotment shall also be reserved for downtown area projects and for small vertical mixed used projects as outlined in the attached Exhibit "A". The vertical mixed use set-aside shall be available to new projects on a first come, first served basis.

C. For purposes of the RDSC competition the Downtown Area shall be defined as the area bounded by Main Avenue to the north, Butterfield Boulevard to the east, Dunne Avenue to the south, and Del Monte Avenue to the west.

D. A set-aside shall be established for on-going projects. To be eligible, the earlier phases of an on-going development must be in compliance with the development schedule approved for the project and must have completed a phase or at least pulled 50 percent of the building permits for a phase by 9/30/04. An exception will be allowed where the delay is due to extended city processing. On-going projects may receive up to 15 building allocations each fiscal year outside of the RDSC competition process. The portion of the building allotment awarded to on-going projects shall be subtracted from the limited allotment for that fiscal year. For on-going projects awarded a building allotment in Fiscal Year 2006-07, the total allocation, including units from this set-aside, shall not exceed 15 units. An on-going project may receive additional allocations through the competitive process in the RDSC competition. The allocation

for on-going projects shall be distributed at the same time the allocation for the Open/Market competition is awarded. Any unused on-going set-aside allocation may be distributed to eligible projects in the other set-aside categories listed in Exhibit "A" The set-aside for on-going projects shall be as set forth in the attached Exhibit "A".

E. The distribution of allotment as set forth in Exhibit "A" may be adjusted by the Planning Commission as deemed necessary to respond to changes in the housing market (change in the build-out rate for existing projects, increase demand for particular housing types, etc.).

F. The distribution of allotment by housing type and number of dwelling units may be modified by the Planning Commission at time of award of allotment based on demand for a particular unit type as provided in the attached Exhibit.

G. The distribution of the building allotment for the Open/Market Competition shall be as outlined in the attached Exhibit "B".

H. The Measure C competition recommended by this Resolution shall be for the purpose of awarding the balance of the Fiscal Year 2006-07 allotment and the Fiscal Year 2007-08 allotment. The Planning Commission may, on a case by case basis, consider a limited allocation into FY 2008-09 as needed to complete a project.

**SECTION 3:** The filing deadline for the Affordable, Open/Market and Micro competitions shall be October 1, 2004. The filing deadline for the FY 2007-08 Downtown Area competition shall be September 1, 2005. The Council may establish an earlier filing deadline for the Downtown competition, if warranted, based on when potential projects would be able to proceed through the competitive process.

**PASSED AND ADOPTED** by the City Council of Morgan Hill at a Regular Meeting held on the 2<sup>nd</sup> Day of June, 2004 by the following vote.

**AYES:**           **COUNCIL MEMBERS:**  
**NOES:**          **COUNCIL MEMBERS:**  
**ABSTAIN:**   **COUNCIL MEMBERS:**  
**ABSENT:**       **COUNCIL MEMBERS:**

**☪ CERTIFICATION ☪**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,** do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on June 2, 2004.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

**DATE:** \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**

## Exhibit “A”

### Fiscal Year 2006-07 Allocation:

<u>Allotment Category</u>	<u>Percent</u>	<u>Units</u>
On-Going Projects	2%	6
Vertical Mixed Use Projects	4%	10
Affordable Competition *	20%	50
Micro Competition **	4%	10 (4 units already allocated)
Open/Market Competition	70%	174 (71 units already allocated)
Total	100%	250

### Fiscal Year 2007-08 Allocation:

<u>Allotment Category</u>	<u>Percent</u>	<u>Units</u>
On-Going Projects	18%***	45
Vertical Mixed Use Projects	4%	10
Affordable Competition *	20%	50
Micro Competition **	4%	10
Open/Market Competition	54%	135
Total	100%	250

\* Allotments may be awarded to projects without regard to housing types, provided that at least 20% of all allotments in the affordable competition are for multi-family dwellings and at least 30% of all multi-family dwellings are rental units.

\*\* Allotments may be awarded to projects without regard to housing types.

\*\*\* Estimate percent of the total allotment available for that fiscal year.

## Exhibit “B”

The following is the recommended distribution by number of dwelling units for the open/market competition. The numbers are based on the percentage distribution of allotments described in Exhibit “A”.

### Fiscal Year 2006-07

DISTRIBUTION BY UNITS		
Open/Market Competition	Single-Family	Either Type
Single-family (33%)	34	
Small Projects (8%)		8
Downtown Area (15%)		15*
Any of the above (44%)		46
Sub total:	34	69
Total for Competition:	<u>103</u>	

### Fiscal Year 2007-08

DISTRIBUTION BY UNITS		
Open/Market Competition	Single-Family	Either Type
Single-family	45	
Small Projects		15
Downtown Area		40*
Any of the above		35
Sub total:	45	9
Total for Competition:	<u>135</u>	

\* Should any portion of the Downtown Area set-aside not be used, the unused portion will be added to the Downtown Area set-aside for FY 2007-08. This will be accomplished by adjusting the set-asides for other projects in the Open/Market Competition. A separate Downtown Area competition, with a filing deadline of September 1, 2005, would be conducted to award the fiscal year 2007-08 allotment.



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: JUNE 2, 2004***

**Agenda Item # 26**

**Prepared By:**

\_\_\_\_\_  
**Finance Director**

**Submitted By:**

\_\_\_\_\_  
**City Manager**

### **REVENUE INCREASE REVIEW**

#### **RECOMMENDED ACTION:**

Consider Finance & Audit Committee Report and provide direction to staff

#### **EXECUTIVE SUMMARY:**

On February 18, the City Council assigned the following goal to the Finance & Audit Committee: "Prior to Council consideration of the City Manager's Recommended Budget in May, 2004, the Finance & Audit Committee shall prepare and recommend a plan for Council to consider new revenue options, including a plan on how best to obtain community input." This goal came out of the Council's adoption of the Sustainable Budget Strategy in January. This strategy calls for a combination of steps, including the drawdown of reserves, expenditure reductions, and revenue increases, so that General Fund revenues and expenditures will be in balance by June 30, 2008. The Strategy specifically requires \$800,000 of ongoing new annual revenues beginning in 2005/06, followed by an additional \$400,000 of ongoing new annual revenues beginning in 2006/07.

In response to the City Council's direction, the Finance & Audit Committee, following lengthy discussions, has produced the attached Revenue Increase Review for the Council's consideration. The Finance & Audit Committee is currently comprised of Chair Mike Roorda, the City Treasurer, and Council Members Hedy Chang and Larry Carr.

#### **FISCAL IMPACT:**

Without \$1.2 million in new ongoing annual revenues for the General Fund, it is projected that the City will not be able to maintain the current level of services in the future.



# **Revenue Increase Review**

**Finance and Audit  
Committee  
City of Morgan Hill**

Wednesday June 2<sup>nd</sup> 2004

# **Revenue Increase Review**

**From the City Council Policies and Goals for 2004  
Adopted February 18<sup>th</sup> 2004**

**Goal: Prior to Council consideration of the City Manager's Recommended Budget in May 2004, the Finance and Audit Committee shall prepare and recommend a plan for Council to consider new revenue options, including a plan on how best to obtain community input.**

# Revenue Increase Review

## Finance and Audit Committee recommendations for evaluating Revenue increases for the City's General Fund

1. Educate the public on the situation with the City budget, the strategic planning the council has done to deal with it, and demonstrate the extent to which spending cuts are a part of that long term plan.
2. Answer the question – Why is a revenue increase needed?
3. Specify the Dollar amount and timing:
  - \$800,000 annual increase from the baseline\* by FY05/06
  - \$1,200,000 annual increase from the baseline\* by FY06/07

\* Baseline = Tax Structure x Economic base

# Revenue Increase Review

## Finance and Audit Committee recommendations for evaluating Revenue increases for the City's General Fund

### 4. Revenue Estimates

	<b>General Tax Majority Vote</b>	<b>Special Tax 2/3 Voter Approval</b>	<b>Fee No Voter Approval</b>	<b>Assessment Majority of Prop Owners</b>	<b>Franchise Revenue No Voter Approval</b>
<b>Sales Tax</b>	\$1,100,000	\$2,200,000			
<b>Bus. License Tax</b>	\$300-\$600,000				
<b>Utility Users Tax</b>	\$650,000				
<b>Development Tax</b>	TBD				
<b>Mello Roos Tax</b>		TBD			
<b>Parcel Taxes</b>		\$850,000			
<b>Police and Fire Tax</b>		\$850,000			
<b>Park Field Rental</b>			\$10,000		
<b>Emergency Dispatch</b>			\$800,000		
<b>Other Fee for Service</b>			TBD		
<b>Lighting &amp; Landscape</b>				\$800,000	
<b>Fire Suppression Dist</b>				\$4,000,000	
<b>Franchises</b>					\$190,000

# Revenue Increase Review

## Finance and Audit Committee recommendations for evaluating Revenue increases for the City's General Fund

5. Examine Many vs. Few/One Revenue Source
6. Examine increasing User Fees (Complete Cost Recovery) vs. going to the Voters for broad based tax increases
7. Identify Selection Criteria and evaluate options based on Criteria
  - **Fairness and Equity** Similarly situated taxpayers should be taxed similarly
  - **Transparency and Visibility** Taxpayers knows tax, how administered, & when imposed
  - **Neutrality** Impact of tax on business and consumption decisions should be minimal
  - **Certainty** Tax rules specify when and how to pay and how amount is determined
  - **Economic Growth and Efficiency** Tax shouldn't impede productive capacity of economy
  - **Appropriate Revenue** Provide adequate and reliable revenues to meet the objective

# **Revenue Increase Review**

## **Finance and Audit Committee recommendations for evaluating Revenue increases for the City's General Fund**

8. Revenue matrices for review
9. Discuss Plans for Incremental Economic Development and Current Inhibitors to Development
10. Community Input
  - Advisory Ballot Measure (\$)
  - Community Polling (\$)
  - Community Workshops (\$)
  - Community Blue Ribbon Task Force (\$)

# **Revenue Increase Review**

## **Finance and Audit Committee recommendations for evaluating Revenue increases for the City's General Fund**

11. Committee Recommends to try to  
    Avoid Divisiveness  
        In the Community  
        On the Council  
            Objective: Unanimous Decision
12. Communicate timing for November Ballot Measure  
    Staff developed calendar – July 21<sup>st</sup> KEY FINAL DATE

# **Revenue Increase Review**

**Finance and Audit Committee recommendations for  
evaluating Revenue increases for the City's General Fund**

## **Addendum**



# Revenue Sources

Revenue Source	Revenue Type	Voter Approval Required? Who Votes?	Estimated Potential Annual Dollars	Use of Revenue	Comments
<b>USER FEES</b>					
<i>Park Field Rental</i>	Fees	No	\$10,000 estimate	Maintain fields	
<i>Emergency Response "911" Fee</i>	Fees	No	\$800,000	Emergency dispatch. Dispatch capital & service costs	San Francisco charges. Charged as a fee per access line & fee per trunk line. Legal question about charging for services that already have to be provided to public.
<b>SALES TAX</b>	Special Tax (potential for general tax with advisory measure vote)	2/3 approval of electorate (potential for majority vote with advisory measure	\$2.2 million	1) criminal just facils, 2)libraries 3)transportation, 4)public education, 5)drug abuse & crime prevention	1/2% tax
	general tax	majority of electorate	\$1.1 million	general purposes	1/4% maximum tax
<b>BUS. LICENSE TAX</b>	general tax	majority of electorate	\$300,000-\$600,000	general	Expansion of tax could be based on flat fee, employee count or gross receipts (current tax combination of flat fee/employee count)
<b>UTILITY USERS TAX</b>	general tax	majority of electorate	estimate of up to \$650,000 per 1% tax rate	general	Can be applied to gas, electric, telephone, sewer, water, refuse, cable tv, and pay phone & mobile phone calls orig. in City

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# Revenue Sources (Continued)

Revenue Source	Revenue Type	Voter Approval Required? Who Votes?	Estimated Potential Annual Dollars	Use of Revenue	Comments
POLICE & FIRE TAX	special tax	2/3 approval of electorate	to be determined \$100 tax per parcel would generate \$850,000	Police and/or fire services & capital costs (types of costs must be specified in ballot measure)	Rate can be same for all parcel owners or can be based upon relative benefits received by each Can be applied city-wide or in zones that vary with benefit
FRANCHISES	franchise revenue	no	\$190,000	general	Refuse rate locked in for term of contract. Cable tv limited to max charged. PG&E not negotiable. (While City's rate for refuse is already relatively high at 16%, it could be increased to 20%
LIGHTING & LANDSCAPE ASSESSMENT	assessment	majority of property owners	\$800,000	maintenance of parks, landscaping, lighting, traffic signals, tree maintenance, sidewalk maintenance & graffiti abatement	Property owner vote is weighted by dollar assessments
FIRE SUPPRESSION DISTRICT	assessment	majority of property owners	\$4 million	fire suppression: obtain, furnish, operate & maintain fire services & apparatus; fire personnel salaries & benefits	Property owner vote is weighted by dollar assessments



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: June 2, 2004***

### **GENERATING LEGISLATIVE SUPPORT FOR COMPROMISE BUDGET LANGUAGE**

**RECOMMENDED ACTION(S):** Council Discretion

**Agenda Item # 27**

**Prepared By:**

**Assistant to the City  
Manager**

**Submitted By:**

**City Manager**

**EXECUTIVE SUMMARY:** The Governor and organizations representing local governments and special districts have come to a well-publicized compromise on the state budget. The League of California Cities has asked cities to actively support this compromise and formally ask each city's legislative representatives to support the legislative actions needed to implement the compromise. Given the politics of the situation, the Legislative Subcommittee has considered this request and is recommending an approach that is more personal and informal.

The sole purpose of this item is to provide the Council with an opportunity to discuss approaches to supporting the compromise in an appropriate way. Naturally, staff is available to support the Council's activities, if needed, in communicating with our legislators.

**FISCAL IMPACT:** No budget adjustment is requested at this time.